

12-29-2014

State v. Kralovec Clerk's Record Dckt. 42760

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

THOMAS JOHN KRALOVEC,

Defendant-Appellant.

Supreme Court Case No. 42760

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the Fourth Judicial District, in and for the County of Ada.

HONORABLE JASON D. SCOTT

STATE APPELLATE PUBLIC DEFENDER

ATTORNEY FOR APPELLANT

BOISE, IDAHO

LAWRENCE G. WASDEN

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

State of Idaho vs. Thomas John Kralovec

Date	Code	User		Judge
2/7/2014	NCRF	PRHARRSK	New Case Filed - Felony	Magistrate Court Clerk
	PROS	PRHARRSK	Prosecutor assigned Ada County Prosecutor	Magistrate Court Clerk
	CRCO	TCMCCOSL	Criminal Complaint	Magistrate Court Clerk
	HRSC	TCMCCOSL	Hearing Scheduled (Video Arraignment 02/07/2014 01:30 PM)	Theresa Gardunia
	CHGA	TCMITCKY	Judge Change: Administrative	Theresa Gardunia
	ORPD	TCMITCKY	Order Appointing Public Defender Ada County Public Defender [on the record in open court]	Theresa Gardunia
	HRSC	TCMITCKY	Hearing Scheduled (Preliminary 02/28/2014 08:30 AM)	Theresa Gardunia
	BSET	TCMITCKY	BOND SET: at 10000.00 - (118-915 {F} Assault or Battery Upon Certain Personnel)	Theresa Gardunia
	ARRN	TCMITCKY	Hearing result for Video Arraignment scheduled on 02/07/2014 01:30 PM: Arraignment / First Appearance	Theresa Gardunia
	ORPD	MADEFRJM	Order Appointing Public Defender [file stamped 2/10/14]	Theresa Gardunia
	ORDR	TCWEGEKE	Pretrial Release Order	Jason D. Scott
2/10/2014	BNDS	TCROBIMD	Bond Posted - Surety (Amount 10000.00)	Theresa Gardunia
2/11/2014	RQDD	TCLANGAJ	Defendant's Request for Discovery	Theresa Gardunia
2/13/2014	STIP	TCWRIGSA	Stipulation to Reset Preliminary Hearing	Theresa Gardunia
2/25/2014	ORDR	CCMANLHR	Order Granting to Reset Preliminary Hearing	Theresa Gardunia
	CONT	CCMANLHR	Continued (Preliminary 04/02/2014 08:30 AM)	Theresa Gardunia
2/27/2014	PHRD	TCLANGAJ	Preliminary Hearing Response to Request for Discovery and Objections	Theresa Gardunia
	RQDS	TCLANGAJ	State/City Request for Discovery	Theresa Gardunia
4/2/2014	CONT	TCPOSELM	Continued (Preliminary 04/29/2014 08:30 AM)	Theresa Gardunia
	MMNH	CCMANLHR	Magistrate Minutes & Notice of Hearing	Theresa Gardunia
4/29/2014	HRWV	CCMANLHR	Hearing result for Preliminary scheduled on 04/29/2014 08:30 AM: Hearing Waived	Theresa Gardunia
	PHWV	CCMANLHR	Hearing result for Preliminary scheduled on 04/29/2014 08:30 AM: Preliminary Hearing Waived (bound Over)	Theresa Gardunia
	CHGB	CCMANLHR	Change Assigned Judge: Bind Over	Theresa Gardunia
	HRSC	CCMANLHR	Hearing Scheduled (Arraignment 05/16/2014 09:00 AM)	Theresa Gardunia
	MOTN	CCMANLHR	Motion to Modify Pre-Trial Release Conditions Denied	Theresa Gardunia
	COMT	CCMANLHR	Commitment	Jason D. Scott
	MMNH	CCMANLHR	Magistrate Minutes & Notice of Hearing	Jason D. Scott
4/30/2014	INFO	TCWRIGSA	Information	Jason D. Scott

State of Idaho vs. Thomas John Kralovec

Date	Code	User	Judge
5/13/2014	RQDD	TCOLSOMC	Defendant's Request for Discovery / Specific
5/16/2014	DCAR	CCSTOKSN	Hearing result for Arraignment scheduled on 05/16/2014 09:00 AM: District Court Arraignment- Court Reporter: D. Cromwell Number of Pages: <50
	HRSC	CCSTOKSN	Hearing Scheduled (Entry of Plea 05/30/2014 09:00 AM)
5/20/2014	SSOC	TCWRIGSA	Stipulation For Substitution Of Counsel/ Fredericksen
5/23/2014	MOTN	TCOLSOMC	Motion to Consolidate w/ MD-14-2147
	MOTN	TCOLSOMC	Motion to Continue Entry of Plea
5/30/2014	OBJE	TCOLSOMC	Objection to Defendant's Motion to Consolidate Filed by the Ada County Prosecuting Attorney
	PLEA	CCSTOKSN	A Plea is entered for charge: - NG (I18-915 {F} Assault or Battery Upon Certain Personnel)
	DCHH	CCSTOKSN	Hearing result for Entry of Plea scheduled on 05/30/2014 09:00 AM: District Court Hearing Held Court Reporter: Dianne Cromwell Number of Transcript Pages for this hearing estimated: <50
	HRSC	CCSTOKSN	Hearing Scheduled (Jury Trial 08/25/2014 09:00 AM) 3 dys
	HRSC	CCSTOKSN	Hearing Scheduled (Pretrial Conference 08/08/2014 11:00 AM)
	ORDR	TCWEGEKE	Order Governing Further Criminal Proceedings and Notice of Trial Setting
6/4/2014	MODQ	TCOLSOMC	Motion for Disqualification of Alternate Judge
	RQDS	TCOLSOMC	State/City Request for Discovery and Demand for Alibi
6/9/2014	RQDD	TCLANGAJ	Defendant's Request for Discovery/Specific
	ORDR	CCJOHNLE	Order For Disqualification Of Alternate Judge Pursuant to ICR 25(a)(b)
6/10/2014	NOHG	TCCHRIKE	Notice Of Hearing on Defendant's Motion to Consolidate(06/20/14@10AM)
	HRSC	TCCHRIKE	Hearing Scheduled (Hearing Scheduled 06/20/2014 10:00 AM)
6/12/2014	MOTN	TCCHRIKE	Motion to Revoke or Increase Bond
6/13/2014	RSDS	TCLANGAJ	State/City Response to Discovery/Second Addendum [unable to locate]
	NOHG	TCLANGAJ	Notice Of Hearing (6/20/14)
6/17/2014	RSDD	TCWRIGSA	Defendant's Response to Discovery
	MOTN	TCOLSOMC	State's Motion for Protective Order / Written Statement Under Seal

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State of Idaho vs. Thomas John Kralovec

Date	Code	User	Judge
6/17/2014	OBJE	TCOLSOMC	Objection to Defendant's Specific Request for Discovery
	NOHG	TCOLSOMC	Notice Of Hearing (6/20/14 @10a)
6/20/2014	DCHH	CCSTOKSN	Hearing result for Hearing Scheduled scheduled on 06/20/2014 10:00 AM: District Court Hearing Held Court Reporter: Cromwell Number of Transcript Pages for this hearing estimated: 50 Motion denied.
6/30/2014	RSDS	TCOLSOMC	State/City Response to Discovery
7/2/2014	NINT	TCLANGAJ	Notice Of Intent to use 404(b) Evidence
	NOHG	TCLANGAJ	Notice Of Hearing (8/8/14)
7/15/2014	MOTN	TCPACKCF	Motion to compel
7/24/2014	NOHG	TCCHRIKE	Notice Of Hearing on Defendant's Motion to Compel Discovery(08/08/14@11AM)
7/29/2014	MISC	TCWRIGSA	Thomas Kralovec's Assertion of Lawyer-Client Privilege and Statement in Support Thereof
	NOHG	TCWRIGSA	Notice Of Hearing on Defendant's Assertion of Lawyer-Client Privilege
7/30/2014	MOTN	TCCHRIKE	Defendant's Motion in Limine
	NOHG	TCCHRIKE	Notice Of Hearing on Defendant's Motion in Limine
	OBJE	TCCHRIKE	Objection to State's Notice of Intent to Use 404(b) Evidence
	MEMO	TCCHRIKE	Defendant's Memorandum in Support of Objection to State's Notice of Intent to Use 404(b) Evidence
8/1/2014	MOTN	TCLANGAJ	Motion to Quash Subpoena
8/5/2014	NOHG	TCLANGAJ	Notice Of Hearing
	RSDS	TCLANGAJ	State/City Response to Discovery/First Addendum
	MOCN	TCLANGAJ	Motion To Continue
8/6/2014	NOHG	TCOLSOMC	Notice Of Hearing (8/8/14 @ 11a)
8/8/2014	MISC	DCABBOSM	State's Motion in Limine Regarding the Testimony of Heidi Koonce and Memorandum in Support
	DCHH	CCSTOKSN	Hearing result for Pretrial Conference scheduled on 08/08/2014 11:00 AM: District Court Hearing Held Court Reporter: Cromwell Number of Transcript Pages for this hearing estimated: <50
	HRVC	CCSTOKSN	Hearing result for Jury Trial scheduled on 08/25/2014 09:00 AM: Hearing Vacated 3 dys
	ORDR	CCJOHNLE	Order Governing Further Criminal Proceedings And Notice Of Trial Setting

State of Idaho vs. Thomas John Kralovec

Date	Code	User	Judge
8/11/2014	HRSC	CCSTOKSN	Hearing Scheduled (Pretrial Conference 09/04/2014 01:00 PM) Pre trial motion hearings
	HRSC	CCSTOKSN	Hearing Scheduled (Jury Trial 10/06/2014 09:00 AM) 3 days
8/20/2014	ORDR	DCABBOSM	Order Denying Defendant's Motion to Compel Discovery
9/4/2014	DCHH	CCSTOKSN	Hearing result for Pretrial Conference scheduled on 09/04/2014 01:00 PM: District Court Hearing Held Court Reporter: Cromwell Number of Transcript Pages for this hearing estimated: <50 Pre trial motion hearings
9/9/2014	ORDR	CCJOHNLE	Order on Motions in Limine
9/26/2014	HRSC	CCNELSRF	Hearing Scheduled (Status 10/03/2014 02:30 PM) In Chambers.
9/30/2014	RSDS	TCLANGAJ	State/City Response to Discovery/Second Addendum
10/2/2014	MISC	TCCHRIKE	State's List of Potential Trial Witnesses
	RSDD	TCCHRIKE	Defendant's Disclosure of Witnesses and Exhibits
10/3/2014	RSDS	TCCHRIKE	State/City Response to Discovery / Third Addendum
	AINF	CCNELSRF	Amended Information
10/6/2014	DCHH	CCNELSRF	Hearing result for Status scheduled on 10/03/2014 02:30 PM: District Court Hearing Held Court Reporter: INCHAMBERS NO RECORDING Number of Transcript Pages for this hearing estimated: In Chambers.
	DCHH	CCNELSRF	Hearing result for Jury Trial scheduled on 10/06/2014 09:00 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: Less than 5000, 3 days
	HRSC	CCNELSRF	Hearing Scheduled (Jury Trial 10/07/2014 09:00 AM) Day 2
10/7/2014	DCHH	CCNELSRF	Hearing result for Jury Trial scheduled on 10/07/2014 09:00 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: Less than 5000, Day 2
	HRSC	CCNELSRF	Hearing Scheduled (Jury Trial 10/08/2014 09:00 AM)
10/8/2014	DCHH	CCNELSRF	Hearing result for Jury Trial scheduled on 10/08/2014 09:00 AM: District Court Hearing Held Court Reporter: V. Gosney Number of Transcript Pages for this hearing estimated: less than 5000 pages, day 3
	MISC	CCNELSRF	States Proposed Jury Instructions

State of Idaho vs. Thomas John Kralovec

Date	Code	User	Judge
10/8/2014	FIGT	CCNELSRF	Finding of Guilty (I18-915 {F} Assault or Battery Upon Certain Personnel)
	STAT	CCNELSRF	STATUS CHANGED: closed pending clerk action
	HRSC	CCNELSRF	Hearing Scheduled (Motion 10/17/2014 10:00 AM)
	JUIN	CCNELSRF	Jury Instructions Filed
	VERD	CCNELSRF	Verdict Form
	AFFD	CCNELSRF	Affidavit of Megan Degroat
10/9/2014	CONT	CCNELSRF	Continued (Motion 10/24/2014 10:00 AM)
	HRSC	CCNELSRF	Hearing Scheduled (Sentencing 11/14/2014 01:30 PM)
	NOHG	CCNELSRF	Notice Of Hearing 11/14 @ 1:30PM
10/16/2014	PSIO1	CCNELSRF	Pre-Sentence Investigation Evaluation Ordered
10/24/2014	DCHH	CCSTOKSN	Hearing result for Motion scheduled on 10/24/2014 10:00 AM: District Court Hearing Held Court Reporter: Cromwell Number of Transcript Pages for this hearing estimated: <50
11/14/2014	DCHH	CCSTOKSN	Hearing result for Sentencing scheduled on 11/14/2014 01:30 PM: District Court Hearing Held Court Reporter: Cromwell Number of Transcript Pages for this hearing estimated: <50
	JAIL	CCSTOKSN	Sentenced to Jail or Detention (I18-915 {F} Assault or Battery Upon Certain Personnel) Confinement terms: Jail: 92 days. Credited time: 2 days. Penitentiary determinate: 1 year. Penitentiary indeterminate: 4 years.
	PROB	CCSTOKSN	Probation Ordered (I18-915 {F} Assault or Battery Upon Certain Personnel) Probation term: 5 years 0 months 0 days. (Felony Probation & Parole)
	SNPF	CCSTOKSN	Sentenced To Pay Fine 240.50 charge: I18-915 {F} Assault or Battery Upon Certain Personnel
11/17/2014	HRSC	CCSTOKSN	Hearing Scheduled (Motion 01/08/2015 03:00 PM) for Restitution
11/18/2014	BNDE	DCCHEBSD	Surety Bond Exonerated (Amount 10,000.00)
	JCOP	DCCHEBSD	Judgment Of Conviction, Suspended Sentence and Order Of Probation and Commitment
	NDRS	TCMALOWR	Notice of Defendant's Responsibilities after Sentencing
11/24/2014	MOTN	TCOLSOMC	Defendant's Renewed Motion to Compel Discovery
11/26/2014	NOHG	TCLANGAJ	Notice Of Hearing on Defendant's Renewed Motion to Compel Discovery (12/8/14)

State of Idaho vs. Thomas John Kralovec

Date	Code	User	Judge
11/26/2014	HRSC	TCLANGAJ	Hearing Scheduled (Hearing Scheduled 12/08/2014 03:30 PM)
12/4/2014	NOTA	TCOLSOMC	NOTICE OF APPEAL
	APSC	TCOLSOMC	Appealed To The Supreme Court
	MOWI	TCOLSOMC	Motion to Withdraw and Appoint the State Appellate Public Defender and Waiver of Fees and Cost of Transcript
	AFFD	TCOLSOMC	Affidavit of Eric D. Frederickson in Support of Motion to Withdraw and Appoint the State Appellate Public Defender and Waiver of Fees and Cost of Transcript
12/8/2014	ORDR	CCSTOKSN	Order Granting Leave to Withdraw and Appoint the State Appellate PD and Waiver of Fees and Cost of Transcript
	DCHH	CCSTOKSN	Hearing result for Hearing Scheduled scheduled on 12/08/2014 03:30 PM: District Court Hearing Held Court Reporter: Cromwell Number of Transcript Pages for this hearing estimated: <50
12/9/2014	MOTN	TCCHRIKE	Motion to Amend Judgment Based Upon Changed Circumstances
	NOHG	TCCHRIKE	Notice Of Hearing(01/08/14@3PM)
12/11/2014	OBJE	TCKEENMM	State's Objection to Defendant's Request to "Amend Judgment Based on Changed Circumstances"
12/29/2014	NOTA	CCJOHNLE	Amended NOTICE OF APPEAL
1/8/2015	DCHH	CCNELSRF	Hearing result for Status Conference scheduled on 01/08/2015 03:00 PM: District Court Hearing Held Court Reporter: cromwell Number of Transcript Pages for this hearing estimated: 50, for Restitution
	HRSC	CCNELSRF	Hearing Scheduled (Status 02/06/2015 10:00 AM)
2/6/2015	DCHH	CCSTOKSN	Hearing result for Status scheduled on 02/06/2015 10:00 AM: District Court Hearing Held Court Reporter: Cromwell Number of Transcript Pages for this hearing estimated: <50
	HRSC	CCSTOKSN	Hearing Scheduled (Motion 03/054/2015 03:00 PM) for Restitution
2/13/2015	TAXN	TCEASTKA	Tax Intercept - NOTICE OF STATE INCOME TAX WITHHOLDING AND DIVERSION OF FUNDS TO THE ABOVE COURT TO PAY A DELINQUENT DEBT

Date: 4/7/2015

Fourth Judicial District Court - Ada County

User: TCWEGEKE

Time: 02:55 PM

ROA Report

Page 7 of 7

Case: CR-FE-2014-0001842 Current Judge: Jason D. Scott

Defendant: Kralovec, Thomas John

State of Idaho vs. Thomas John Kralovec

Date	Code	User	Judge
3/5/2015	DCHH	CCSTOKSN	Hearing result for Motion scheduled on 03/05/2015 03:00 PM: District Court Hearing Held Court Reporter: Cromwell Number of Transcript Pages for this hearing estimated: (<50) for Restitution
4/7/2015	NOTC	TCWEGEKE	(2) Notice of Transcript Lodged - Supreme Court No. 42760

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DR # 14-005580

FEB 07 2014

CHRISTOPHER D. RICH, Clerk
By STORMY MOONBLACK
CLERK

GREG H. BOWER
Ada County Prosecuting Attorney

Kari L. Higbee
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

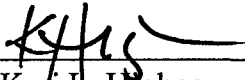
THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0001842
vs.)	
	)	COMPLAINT
THOMAS JOHN KRALOVEC,)	
	)	Kralovec's DOB [REDACTED]
Defendant.	)	Kralovec's SSN [REDACTED]
_____)	

PERSONALLY APPEARED Before me this 7th day of February 2014, Kari L. Higbee, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, who, being first duly sworn, complains and says: that THOMAS JOHN KRALOVEC, on or about the 7th day of February, 2014, in the County of Ada, State of Idaho, did commit the crime of BATTERY ON A POLICE/PEACE OFFICER OR SHERIFF, FELONY, I.C. §18-915(3), 903(a) as follows:

That the Defendant, THOMAS JOHN KRALOVEC, on or about the 7th day of February, 2014, in the County of Ada, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of Ada County Deputy Michaelson by using his leg to kick Deputy Michaelson in the shoulder, where the Defendant knew or had reason to know that Deputy Michaelson was a former or present peace officer, sheriff or police officer and did commit said battery while Deputy Michaelson was engaged in the performance of his duties.

All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.

GREG H. BOWER
Ada County Prosecutor



Kari L. Higbee
Deputy Prosecuting Attorney

SUBSCRIBED AND Sworn to before me this 7th day of February 2014.



Magistrate

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
STATE OF IDAHO, ADA COUNTY, MAGISTRATE DIVISION
PROBABLE CAUSE FORM

STATE OF IDAHO

vs.

Thomas John Kralovec

PROSECUTOR K. Higbee

COMPLAINING WITNESS _____

CASE NO. FE14-1842

CLERK H. Manley

DATE 2/7/2014 TIME 1146

CASE ID Steckel 020714 BEG. 114646

COURTROOM 204 END 164826

INTOX _____

JUDGE

STATUS

- ☐ BEREZ
- ☐ BIETER
- ☐ CAWTHON
- ☐ COMSTOCK
- ☐ ELLIS
- ☐ FORTIER
- ☒ GARDUNIA
- ☐ HARRIGFELD
- ☐ HAWLEY
- ☐ HICKS
- ☐ KIBODEAUX
- ☐ _____
- ☐ _____

- ☐ MacGREGOR-IRBY
- ☐ MANWEILER
- ☐ McDANIEL
- ☐ MINDER
- ☐ OTHS
- ☐ REARDON
- ☐ SCHMIDT
- ☒ STECKEL
- ☐ SWAIN
- ☐ WATKINS

- ☒ STATE SWORN
- ☒ PC FOUND _____
- ☒ COMPLAINT SIGNED
- ☐ AMENDED COMPLAINT SIGNED
- ☐ AFFIDAVIT SIGNED
- ☐ JUDICIAL NOTICE TAKEN
- ☐ NO PC FOUND _____
- ☐ EXONERATE BOND _____
- ☐ SUMMONS TO BE ISSUED
- ☐ WARRANT ISSUED
- ☐ BOND SET \$ _____
- ☐ NO CONTACT

DR# _____

- ☐ DISMISS CASE
- ☒ IN CUSTODY

COMMENTS

☐ AGENTS WARRANT _____

☐ RULE 5(B) _____

☐ FUGITIVE _____

☐ MOTION & ORDER TO CONSOLIDATE _____

ADA COUNTY MAGISTRATE MINUTES

Thomas John Kralovec CR-FE-2014-0001842

DOB [REDACTED]

Scheduled Event: Video Arraignment Friday, February 07, 2014 01:30 PM

Judge: Theresa Gardunia

Clerk: KM

Interpreter: _____

Prosecuting Agency: X AC BC EA GC MC

Pros: M. Hawkins

PD Attorney: J. Shackelford

• 1 I18-915 F Assault or Battery Upon Certain Personnel F

30830 Case Called Defendant: X Present Not Present X In Custody

X Advised of Rights Waived Rights X PD Appointed Waived Attorney

Guilty Plea / PV Admit N/G Plea Advise Subsequent Penalty

X Bond \$ 10,000 ROR Pay / Stay Payment Agreement

In Chambers + PTRO PT Memo Written Guilty Plea No Contact Order

Prelim: 2/28/14 at 8:30 AM
w/ Judge Gardunia

PTRO

Finish () Release Defendant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
THOMAS JOHN KRALOVEC)
Defendant.)
)

Case No. CR-FE-2014-0001842
PRETRIAL RELEASE ORDER
BOND \$ 10,000.00

The above-named defendant has been ordered, as a condition of bond, to the following:

Pretrial monitoring and/or supervision through Ada County Sheriff's Office Pretrial Services Unit (PSU) pertaining to Court's order for:

Basic Monitoring Conditions:

- ☒ Compliance with all standard conditions of pretrial release
 - ☒ No new crimes (Defendant must notify the PSU of all contact with Law Enforcement)
 - ☒ Periodic reporting to the PSU as determined by the Idaho Pretrial Risk Assessment Instrument (IPRAI).
 - ☒ Maintain all Court Appearances.
 - ☒ Defendant must provide accurate information to the PSU
 - ☒ Defendant must notify the PSU of any and all changes in contact information (address, phone, employment, emergency contact information, etc.)
 - ☒ No possession or consumption of illegal drugs
- ☐ No violation of No Contact Order or contact with alleged victim(s) _____
- ☒ No possession or consumption of alcohol or frequenting establishments where alcohol sales are primary source of revenue
- ☐ Other: _____

Conditions of Supervision:

- ☒ Alcohol Monitoring as determined post interview by the PSU to include urinalysis (U.A.), ankle monitor (transdermal), or portable breath test
 - or Court determined: ☐ UA ☐ Ankle Monitor ☐ Portable Breath Test
 - ☐ Ankle monitor required prior to release from custody
- ☐ Drug Monitoring via random urinalysis (UA)
- ☐ GPS ☐ GPS installation required prior to release from custody
- Other GPS Restrictions: _____

Defendant must immediately call the PSU: (208) 577-3444
7180 Barrister, Boise ID 83704
Monday through Friday 8:00am to 4:00pm

Defendant must pay alcohol monitoring and/or GPS monitoring fees thirty (30) days in advance. Any refund will be processed upon removal. Defendant is responsible for all urinalysis fees at the time of testing. Defendant will follow all pretrial program instructions given by the PSU.

If Defendant fails to comply with any of these terms, the PSU will promptly notify the Court of the alleged violation.

Defendant _____

Date _____

Judge 2-7-14

FEB 10 2014

CHRISTOPHER D. RICH, Clerk
By STEPHANIE HARDY
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA
MAGISTRATE DIVISION

STATE OF IDAHO,
Plaintiff.

vs.

Thomas John Kralovec
550 W. Lockport Dr.
Boise, ID 83703
Defendant.

)
) Case No: CR-FE-2014-0001842

) NOTICE OF APPOINTMENT OF PUBLIC DEFENDER
) AND SETTING CASE FOR HEARING

) ☒ Ada ☐ Boise ☐ Eagle ☐ Garden City ☐ Meridian

TO: Ada County Public Defender

YOU ARE HEREBY NOTIFIED that you are appointed to represent the defendant in this cause, or in the District Court until relieved by court order. The case is continued for:

PreliminaryFriday, February 28, 201408:30 AM
Judge: Theresa Gardunia

BOND AMOUNT: _____ The Defendant is: ☐ In Custody ☐ Released on Bail ☐ ROR

TO: The above named defendant

IT HAS BEEN ORDERED BY THIS COURT that the defendant is to contact the Ada County Public Defender's Office at 200 W. Front Street, Room 1107, Boise, Idaho 83702. Telephone: (208) 287-7400. If the defendant is unable to post bond and obtain his/her release from jail, that the proper authorities allow the defendant to make a phone call to the Ada County Public Defender.

IT HAS BEEN FURTHER ORDERED: That the parties, prior to the pre-trial conference, complete and comply with Rule 16 I.C.R. and THAT THE DEFENDANT BE **PERSONALLY PRESENT** AT BOTH THE PRE-TRIAL CONFERENCE AND / OR THE JURY TRIAL: FAILURE TO APPEAR AT EITHER THE PRE-TRIAL CONFERENCE OR THE JURY TRIAL WILL RESULT IN A **BENCH WARRANT** FOR THE DEFENDANT'S ARREST.

I hereby certify that copies of this Notice were served as follows on this date Friday, February 07, 2014.

Defendant: Mailed _____ Hand Delivered ☒ Signature _____
Clerk / date _____ Phone () _____

Prosecutor: Interdepartmental Mail ☒

Public Defender: Interdepartmental Mail ☒

Stephanie Hardy
Deputy Clerk

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA.

THE STATE OF IDAHO,
Plaintiff,

vs.

KRALOVEC THOMAS JOHN
Defendant

NO. _____ FILED
A.M. 10 P.M. _____

FEB 10 2014
NOTICE OF COURT DATE
AND CHRISTOPHER D. RICH, Clerk
BOND RECEIPT BY MARSHA ROBINSON
DEPUTY

YOU ARE HEREBY NOTIFIED that you must appear in Court
on **28 February 2014 at 08:30AM hrs, at the:**

✓
Ada County Courthouse
200 West Front Street
Boise, 83702

If you have been arrested for a Citation, This Notice of Court Date Supersedes any other Court Date for this case. If you have been given a date by the court you must keep those appearances, failing to do so will cause a warrant for arrest and forfeiture of bond.

You are further notified that if you fail to appear as specified herein, your bond will be forfeited and a Warrant of Arrest will be issued against you.

BOND RECEIPT No: 1076250

Charge: 18-915-B {F} ASSAULT OR BATTERY UPON CERTAIN PERSONNEL
Bond Amount: \$ 10,000.00
Case # CRFE20140001842
Bond # AC10-7508262
Bond Type: Surety
Warrant #:
Agency: Aladdin/Anytime
Insurance: American Contractors Indemnity Company
Bondsman: MCAULIFFE TIMOTHY
Address: 80 N COLE RD
Boise, ID 83704

✓
This is to certify that I have received a copy of this NOTICE TO APPEAR.
I understand that I am being released on the conditions of posting bail and
my promise to appear in the court at the time, date, and place described in this notice.

DATED: 2/8/2014


DEFENDANT

253
ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

NO. _____
A.M. _____ P.M. _____
FILED _____

FEB 11 2014

CHRISTOPHER D. RICH, Clerk
By AMY LANG
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff

vs.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842

REQUEST FOR DISCOVERY

TO: THE STATE OF IDAHO, Plaintiff, and to ADA COUNTY PROSECUTOR:

PLEASE TAKE NOTICE, that the undersigned, pursuant to ICR 16, requests discovery and photocopies of the following information, evidence, and materials:

- 1) All **unredacted** material or information within the prosecutor's possession or control, or which thereafter comes into his possession or control, which tends to negate the guilt of the accused or tends to reduce the punishment thereof. ICR 16(a).
- 2) Any **unredacted**, relevant written or recorded statements made by the defendant, or copies thereof, within the possession, custody or control of the state, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence; and also the substance of any relevant, oral statement made by the defendant whether before or after arrest to a peace officer, prosecuting attorney or the prosecuting attorney's agent; and the recorded testimony of the defendant before a grand jury which relates to the offense charged.
- 3) Any **unredacted**, written or recorded statements of a co-defendant; and the substance of any relevant oral statement made by a co-defendant whether before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer or agent of the prosecuting attorney.
- 4) Any prior criminal record of the defendant and co-defendant, if any.
- 5) All **unredacted** documents and tangible objects as defined by ICR 16(b)(4) in the possession or control of the prosecutor, which are material to the defense, intended for use by the prosecutor or obtained from or belonging to the defendant or co-defendant.

- 6) All reports of physical or mental examinations and of scientific tests or experiments within the possession, control, or knowledge of the prosecutor, the existence of which is known or is available to the prosecutor by the exercise of due diligence.
- 7) A written list of the names, addresses, records of prior felony convictions, and written or recorded statements of all persons having knowledge of facts of the case known to the prosecutor and his agents or any official involved in the investigatory process of the case.
- 8) A written summary or report of any testimony that the state intends to introduce pursuant to rules 702, 703, or 705 of the Idaho Rules of Evidence at trial or hearing; including the witness' opinions, the facts and data for those opinions, and the witness' qualifications.
- 9) All reports or memoranda made by police officers or investigators in connection with the investigation or prosecution of the case, including what are commonly referred to as "ticket notes."
- 10) Any writing or object that may be used to refresh the memory of all persons who may be called as witnesses, pursuant to IRE 612.
- 11) Any and all audio and/or video recordings made by law enforcement officials during the course of their investigation.
- 12) Any evidence, documents, or witnesses that the state discovers or could discover with due diligence after complying with this request.

The undersigned further requests written compliance within 14 days of service of the within instrument.

DATED, Tuesday, February 11, 2014.



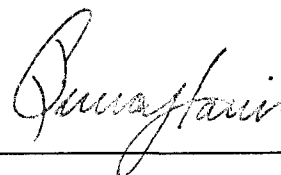
HEIDI K KOONCE
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Tuesday, February 11, 2014, I mailed a true and correct copy of the within instrument to:

ADA COUNTY PROSECUTOR
Counsel for the State of Idaho

by placing said same in the Interdepartmental Mail.



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PH
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ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant
HEIDI K. KOONCE, ISB#7270
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7419

NO. 1030
FILED
A.M. 10 P.M. 30

FEB 13 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
	)	Criminal No. CR-FE-2014-1842
Plaintiff,)	
)	
vs.	)	STIPULATION TO RESET
	)	PRELIMINARY HEARING
THOMAS JOHN KRALOVEC,)	
)	
Defendant.)	
_____)	

COMES NOW, the parties, HEIDI KOONCE, Attorney of Record for THOMAS JOHN KRALOVEC, and FAFA ALIDJANI, Ada County Prosecuting Attorney, and hereby stipulate and agree to reset the PRELIMINARY HEARING now scheduled for the 28th day of February, 2014, at the hour of 8:30a.m. to the day of March, 2014, at the hour of 8:30a.m. This stipulation is based upon the Defendant being in intensive in-patient treatment at the Walker Center until after March 18th, 2014. See attached

DATED, this 13 day of February, 2014.

[Signature] [Signature]
FAFA ALIDJANI HEIDI KOONCE
Ada County Prosecuting Attorney Attorney for Defendant

SW
STIPULATION TO RESET PRELIMINARY HEARING

000018

Thomas J. Kralovec
5500 W. Lockport Drive, Boise, Idaho 83703
Phone: 208/761-0369 / Email: TomKralovec1187@gmail.com

February 11, 2014

The Honorable Judge Theresa Gardunia
200 W Front Street
Boise, ID 83702

VIA Fax: 208-287-7409

✓ Heidi Koonce, Public Defender
200 W Front Street
Boise, ID 83702

VIA Fax: 208-287-7409

Re: Thomas J. Kralovec
Case No. CR-FE-2014-001842;
Hearing Date: February 28, 2014

Dear Judge and Ms. Koonce,

I am writing to ask if you would consider rescheduling my court date from February 28th, 2014 to any date after March 18th, 2014, so I can commit to a full-time residential in-patient rehab treatment as early as Monday, February 17, 2014, as the treatment program is a 28 day program that requires me to stay at the facility the entire time, and will not register me into their program until I have rescheduled any court, legal matters, or other commitments for dates beyond the treatment program end date.

I was recently arrested for public intoxication and shortly after arriving at the jail I received a felony battery for my actions against a Police Officer. I deeply regret my actions and take full responsibility for my out of control behavior and the inexcusable state of intoxication I was in when the incident happened. I don't remember the incident and I am sincerely ashamed of my behavior and for the disrespect and treatment I gave to Deputy Michaelson. I am fully aware and agree that my intoxication is no excuse for my serious misbehavior.

I have never had an issue with losing control or any type of battery behavior in the past, and I am very embarrassed and ashamed of any inappropriate actions I took toward Deputy Michaelson. This incident has forced me to face my alcohol problem and admit that I am incapable of handling this problem without professional help. It has been a "wake up" call to re-evaluate my life style, my current circle of friends, and the value of my family.

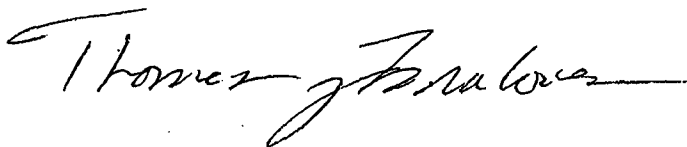
1. I have contacted the Walker Center in Gooding, Idaho to pre-register and get pre-authorized for their residential inpatient program beginning Monday, February 17, 2014. They have asked me to send you a letter to ask if my first hearing can be rescheduled until after my 28 day treatment is completed, because their process does not allow me to leave the facility during the treatment period, once I check in.
2. I have written an apology letter to Deputy Michaelson and apologized for my behavior and told him how much I respect him and appreciate all the work he does for our community. I also told him I am embarrassed of my actions and that this incident has made me realize that I have a serious problem and need professional help.

3. I have written thank you notes to the two deputies that spent time talking with me and thanked them for their time and their wisdom. It has made a difference.
4. I have called my boss at Franz Witte Nursery and explained my arrest and the felony incident following my arrest. I let him know that I love my job and don't want to lose it over my irresponsible actions, but I need to get my head on straight and my priority is to get help as soon as I can get in to the Walker Center, so that I can be a better person and a better worker. He told me that I am a great worker and a good person, and that he will work with me as much as possible to keep me on the landscape crew, and he was glad I was taking this step. He has also said he would provide you with a letter of reference on my behalf.
5. Finally, I have the full support of my family who has put up with a lot from me. They have tried to help me over the past 4-6 years, and have provided constant encouragement to get help with my problem, however, I have fought them every step of the way until now. Though it's hard for me to believe, they are still here for me and love and support me. I have apologized to my folks and my brother for this recent incident, for what I have put them through the past 4-6 years and the hurt and worry I have caused them. I still have several people in my life I need to apologize to: my grandparents and my uncle, but I need to show them that I am worth forgiving and my bad choices, lack of conscious, and my days and years of self-destruction are over... actions are more important than words sometimes, but I will apologize to them in the near future.

I know my arrest and my behavior in the jail is inexcusable, but if there is a lesson to be learned here, I have definitely learned it. It has forced me to recognize I need professional help to better myself, accept responsibility for my actions, and recognize my destructive behavior has become my lifestyle. I am 100% committed to the Walker Center's treatment program and even though I am scared and know this is the hardest thing I've ever had to do, I am anxious to change my life for the positive and deal with my alcohol illness.

I appreciate your time and consideration of my request to reschedule my first hearing/trial to allow me to get the treatment I desperately need and require, and allow me to make the most of this opportunity at the Walker Center to become a better person and to get my life back on track. Please notify me as soon as possible to enable me to finalize my registration and check-in at the Walker Center, currently scheduled for Monday, February 17, 2014.

Thank you.



ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant

HEIDI K. KOONCE, ISB#7270
200 West Front Street, Suite 200
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7419

RECEIVED
FEB 13 2014

Ada County Clerk

NO. _____ FILED _____
A.M. _____ P.M. 20

FEB 25 2014

CHRISTOPHER D. RICH, Clerk
By HEIDI MANLEY
DEPUTY


IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
	)	Criminal No. CR-FE-2014-1842
Plaintiff,)	
)	
vs.	)	ORDER GRANTING TO RESET
	)	PRELIMINARY HEARING
THOMAS JOHN KRALOVEC,)	
)	
Defendant.)	
_____)	

The parties, having stipulated and agreed, and good cause appearing therefrom;

IT IS HEREBY ORDERED, AND THIS DOES ORDER, that the PRELIMINARY HEARING is rescheduled to the ^{2nd} day of ^{April} ~~March~~ 2014 at the hour of 8:30a.m.

DATED, this 25th day of Feb, 2014.



THERESA GARDUNIA
Magistrate

ORDER GRANTING TO RESET PRELIMINARY HEARING

000021

253
FH
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830

NO. 819 FILED
A.M. 819 P.M.

FEB 27 2014

CHRISTOPHER D. RICH, Clerk
By AMY LANG
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Fafa Alidjani
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702-5954
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
	)	Case No. CR-FE-2014-0001842
Plaintiff,)	
vs.	)	PRELIMINARY HEARING
	)	RESPONSE TO REQUEST FOR
THOMAS JOHN KRALOVEC,	)	DISCOVERY AND OBJECTIONS
)	
Defendant.)	
_____)	

COMES NOW, Fafa Alidjani, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and submits the following Preliminary Hearing Response to the Request for Discovery and Objections and informs the Court that the State has complied with the Defendant's Request for Discovery as outlined below.

I. DISCLOSURES

16-A Brady-Agurs Disclosure: The prosecution is unaware of any evidence that is exculpatory on its face relating to the offense charged.

With regard to evidence that may be exculpatory as used or interpreted, the prosecution requests that the defense counsel submit, in writing, the defense to be asserted in this case so the prosecution can review its file to determine if any facts, evidence or witnesses may be material to the preparation of that defense. In the alternative, the prosecution offers to defense counsel an open

a

file policy to review those documents in the control and possession of the prosecution that may be exculpatory in some manner to the offense charged.

16-B Stipulation - Request Disclosure:

1. Statement of Defendant: The State has complied with discovery by providing the known statements of the Defendant that are contained in documents and items the State currently has in its possession and will comply with discovery as more information becomes available, as follows:

- a. Audio Taped Confession/Statement, if any exists
- b. Video Taped Confession/Statement, if any exists
- c. Written Confession/Statement, if any exists
- d. As reflected in Police Reports
- e. As reflected in booking sheets

Be advised: As you are aware, the Ada County Jail video records inmate video conversations your client has with individuals other than your client's lawyer while incarcerated at the Ada County Jail. The visual or the images of the recorded calls are kept for only 30 days of the date of the conversation, although the audio portion of the video recordings are maintained indefinitely. Please contact the handling prosecuting attorney to make an appointment to view those video calls should you desire to do so before they drop off the system.

2. Statement of Co-Defendant: See disclosed police reports for statements of Co-Defendant, if any exists.

3. Defendant's Prior Record: The Defendant's prior record disclosed in the following:

- a. NCIC report

4A. Documents and Tangible Objects: Police Reports, Witness Statements, Medical records and/or other tangible documents in possession of the Ada County Prosecutor's Office as of the date of filing of this document disclosed as State's pages 1 through 11. Pursuant to I.C.R. 16(d), the State has provided an unredacted discovery packet for defense counsel and a redacted packet of discovery for the defendant. The unredacted packet of discovery is not to be disclosed to the defendant or to the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need.

i. Audio/video recordings: The State will provide audio and/or video recordings when they are received, if any exists, in this case. The State will provide unredacted audio and/or video to defense counsel marked "Confidential," which are not to be shared with the defendant or

the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need. At the preliminary hearing level, upon request, the State will provide redacted audio/video to defense counsel so that redacted audio/video may be shared with the defendant.

Be advised: As you are aware, the Ada County Jail video records inmate video conversations your client has with individuals other than your client's lawyer while incarcerated at the Ada County Jail. The visual or the images of the recorded calls are kept for only 30 days of the date of the conversation, although the audio portion of the video recordings are maintained indefinitely. Please contact the handling prosecuting attorney to make an appointment to view those video calls should you desire to do so before they drop off the system.

B. Photographs: The State will comply with such request as it receives photographs, maps, charts or diagrams, if any exist, in this case.

5. Reports of Examinations and Tests:

☒ The State will comply with such request as it receives reports of examinations and tests, if any exist, in this case.

☒ These documents are specifically identified in subsection 4A.

6. Witnesses: A list of names identifying witnesses and protected contact information has been provided to defense counsel in a letter under separate cover, which is not to be disclosed to the defendant or to the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need. The State has provided to defense counsel a separate redacted witness list excluding protected information that can be shared with the defendant.

7. Expert Witnesses: The State will comply with such request as it identifies expert witnesses, if any exist, in this case.

☒ The State will comply with such request as it receives reports of examinations and tests, if any exist, in this case.

☒ These witnesses have been identified in a letter to defense counsel as described above in subparagraph 6 above.

8. Police Reports: The State possesses police reports, witness statements and other documents which are available upon request. These documents are specifically identified in subparagraph 4(A) above.

II. OBJECTIONS

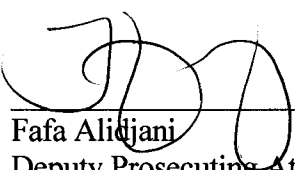
A. The State has excluded the identity of the Confidential Informant from this Discovery Response. The grounds for this objection is/are as follows. Pursuant to I.C.R. 16(g)(2) and I.R.E. 509, the identity of a Confidential Informant is excluded unless said Informant is to be produced as a witness at a hearing or trial, subject to any protective order under I.C.R. 16(l) or a disclosure order under Rule 16(b)(9).

B. The State objects to any items in the defendant's request for discovery that would be in violation of state or federal law as follows and requests that if this Court rules that disclosure is required, that this Court also issue a protective order pursuant to I.C.R. 16(l):

- ☒ NCIC criminal history for all witnesses. The State is not permitted to use NCIC for this purpose pursuant to federal law and hereby objects to providing this material.
- ☒ A police officer(s)' internal affairs files and/or other personnel documents. Personnel documents are confidential matters pursuant to State law. The State hereby objects to providing this material.
- ☐ Other

RESPECTFULLY SUBMITTED this 26 day of February 2014.

GREG H. BOWER
Ada County Prosecuting Attorney



Fafa Alidjani
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of February 2014, I caused to be served, a true and correct copy of the foregoing Preliminary Hearing Response to Request for Discovery and Objections upon the individual(s) named below in the manner noted:

Heidi Koone, Ada County Public Defender's Office

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☒ By hand delivering copies of the same to defense counsel.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____



FEB 27 2014

CHRISTOPHER D. RICH, Clerk
By AMY LANG
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Fafa Alidjani
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700
Fax: (208) 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0001842
)	
vs.	)	REQUEST FOR DISCOVERY
)	
THOMAS JOHN KRALOVEC,)	
)	
Defendant.)	
_____)	

TO THE ABOVE NAMED DEFENDANT:

PLEASE TAKE NOTICE that the undersigned, pursuant to Rule 16 of the Idaho Criminal Rules, requests Discovery and inspection of the following:

(1) Documents and Tangible Objects:

Request is hereby made by the prosecution to inspect and copy or photograph books, papers, documents, photographs, tangible objects or copies or portions thereof, which are within the possession, custody or control of the defendant, and which the defendant intends to introduce in evidence at trial.

(2) Reports of Examinations and Tests:

The prosecution hereby requests the defendant to permit the State to inspect and copy or photograph any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, within the possession or control of the defendant, which the defendant intends to introduce in evidence at the trial, or which were prepared by a witness whom the defendant intends to call at the trial when the results or reports relate to testimony of the witness.

(3) Defense Witnesses:

The prosecution requests the defendant to furnish the State with a list of names and addresses of witnesses the defendant intends to call at trial.

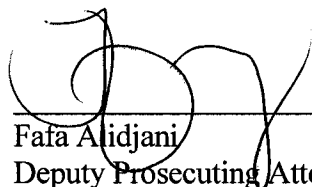
(4) Expert Witnesses:

The prosecution requests the defendant to provide a written summary or report of any testimony that the defense intends to introduce pursuant to Idaho Criminal Rule 16(c)(4), including the facts and data supporting the opinion and the witness's qualifications.

(5) Pursuant to Idaho Code Section 19-519, the State hereby requests that the defendant state in writing within ten (10) days any specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom he intends to rely to establish such alibi.

DATED this 26 day of February 2014.

GREG H. BOWER
Ada County Prosecuting Attorney


Fafa Alidjani
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27 day of February 2014, I caused to be served, a true and correct copy of the foregoing Request for Discovery upon the individual(s) named below in the manner noted:

Heidi Koonce, Ada County Public Defender's Office

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☒ By hand delivering copies of the same to defense counsel.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____



IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

FILED	4-2-14	AT	12:00 PM
CHRISTOPHER D. RICH, CLERK OF THE DISTRICT COURT			
BY	[Signature] Deputy		

STATE OF IDAHO,)
)
Plaintiff,)
)
)
vs.)
Thomas John Kralovec)
Defendant.)

PRELIMINARY HEARING NOTICE / MINUTE SHEET

Case Number: FE-14-1842
Case Called: Gardina 91943
☒ Ada ☐ Special F Alidjani
☒ PD Private Koonce

Defendant: ☒ Present ☐ Not Present ☐ In Custody ☐ PD Appointed ☐ Waived Attorney
☒ Advised of Rights ☐ Waived Rights ☐ In Chambers ☐ Interpreter
☒ Bond \$ 10,000 + ☒ Pre-Trial Release Order ☐ Motion for Bond Reduction Denied / Granted
☐ Amended Complaint Filed ☐ Complaint Amended by Interlineation ☐ Reading of Complaint Waived
☐ State / Defense / Mutual Request for Continuance Need discovery
☐ State / Defense Objection / No Objection to Continuance
☒ Case continued to 4/29/14 at 8:30 ☒ am ☐ pm for P.H.
☐ Defendant Waives Preliminary Hearing ☐ Hearing Held ☐ Commitment Signed
☐ Case Bound Over to Judge _____ on _____ at _____ am/pm
☐ Case Dismissed after Preliminary Hearing / On State's Motion ☐ Release Defendant, This Case Only

ADA COUNTY COURTHOUSE, 200 W. FRONT STREET, BOISE, ID 83702

You must appear as scheduled above. Failure to do so will result in a warrant being issued for your arrest.

I hereby certify that copies of this notice were served as follows:

Defendant: ☒ Hand Delivered ☐ Via Counsel Signature Thomas J Kralovec
Defense Atty: ☐ Hand Delivered ☐ Intdept Mail
Prosecutor: ☒ Hand Delivered ☐ Intdept Mail

By: Aria Posey
Deputy Clerk

DATED 4-2-14

APR 29 2014

CHRISTOPHER D. RICH, Clerk
By HEIDI MANLEY
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Fafa Alidjani
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)

Plaintiff,)

vs.)

THOMAS JOHN KRALOVEC,)

Defendant.)

Case No. CR-FE-2014-0001842

COMMITMENT

Defendant's DOB

Defendant's SSN

THE ABOVE NAMED DEFENDANT, THOMAS JOHN KRALOVEC, having been brought before this Court for a Preliminary Examination on the 29th day of April, 2014, on a charge that the Defendant on or about the 7th day of February, 2014, in the County of Ada, State of Idaho, did commit the crime(s) of: BATTERY ON A POLICE/PEACE OFFICER OR SHERIFF, FELONY, I.C. §18-915(3), 903(a) as follows:

That the Defendant, THOMAS JOHN KRALOVEC, on or about the 7th day of February, 2014, in the County of Ada, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of Ada County Deputy Michaelson by using his leg to kick Deputy Michaelson in the shoulder, where the Defendant knew or had reason to know that Deputy Michaelson was a former or present peace officer, sheriff or police officer and did commit said battery while Deputy Michaelson was engaged in the performance of his duties.

The Defendant having so appeared and having had/having waived preliminary examination, the Court sitting as a Committing Magistrate finds that the offense charged as set forth has been committed in Ada County, Idaho, and that there is sufficient cause to believe that the Defendant is guilty of committing the offense as charged.

WHEREFORE, IT IS ORDERED that the Defendant be held to answer to the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, to the charge herein set forth. Bail is set in the sum of \$ 10,000 + PTRD.

DATED this 29th day of April, 2014.



MAGISTRATE

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

FILED 4/29/14 AT 2:25 P.M.
CHRISTOPHER D. RICH,
CLERK OF THE DISTRICT COURT
BY H. Manley
Deputy

STATE OF IDAHO,

Plaintiff,

vs.

Kralovec, Thomas John
Defendant.

PRELIMINARY HEARING NOTICE / MINUTE SHEET

Case Number: FE-14-1842

Case Called: Gardua 92916

☒ Ada ☐ Special F. Alidjani

☒ Private H. Koonce

Defendant: ☒ Present ☐ Not Present ☐ In Custody ☐ PD Appointed ☐ Waived Attorney

☐ Advised of Rights ☐ Waived Rights ☐ In Chambers ☐ Interpreter

☒ Bond \$ 10,000 + ☒ Pre-Trial Release Order ☐ Motion for Bond Reduction Denied / Granted

☐ Amended Complaint Filed ☐ Complaint Amended by Interlineation ☐ Reading of Complaint Waived

☐ State / Defense / Mutual Request for Continuance

☐ State / Defense Objection / No Objection to Continuance

☐ Case continued to at am/pm for

☒ Defendant Waives Preliminary Hearing ☐ Hearing Held ☒ Commitment Signed

☒ Case Bound Over to Judge Scott on 5-16-14 at 9:00 am/pm

☐ Case Dismissed after Preliminary Hearing / On State's Motion ☐ Release Defendant, This Case Only

#2 - Motion to Modify Pretrial Release Conditions; #1 Response -
#2 Now requests just Alcohol testing - Not Drugs; Ct has only ordered
~~Ct. Willing to Sign order~~ Alcohol testing;
Motion Denied

ADA COUNTY COURTHOUSE, 200 W. FRONT STREET, BOISE, ID 83702

You must appear as scheduled above. Failure to do so will result in a warrant being issued for your arrest.

I hereby certify that copies of this notice were served as follows:

Defendant: ☒ Hand Delivered ☐ Via Counsel

Signature Thomas Kralovec

Defense Atty: ☐ Hand Delivered ☐ Intdept Mail

Prosecutor: ☒ Hand Delivered ☐ Intdept Mail

By: H. Manley
Deputy Clerk

DATED 4-29-14

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ATT
5/16

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FILED
A.M. P.M. 2

APR 30 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0001842
)	
vs.	)	I N F O R M A T I O N
)	
THOMAS JOHN KRALOVEC,	)	Defendant's DOB
	)	Defendant's SSN:
Defendant.)	
_____)	

GREG H. BOWER, Prosecuting Attorney, in and for the County of Ada, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Ada, and states that THOMAS JOHN KRALOVEC is accused by this Information of the crime(s) of: BATTERY ON A POLICE/PEACE OFFICER OR SHERIFF, FELONY, I.C. §18-915(3), 903(a) which crime(s) was/were committed as follows:

That the Defendant, THOMAS JOHN KRALOVEC, on or about the 7th day of February, 2014, in the County of Ada, State of Idaho, did willfully and unlawfully use force

SN

and/or violence upon the person of Ada County Deputy Michaelson by using his leg to kick Deputy Michaelson in the shoulder, where the Defendant knew or had reason to know that Deputy Michaelson was a former or present peace officer, sheriff or police officer and did commit said battery while Deputy Michaelson was engaged in the performance of his duties.

All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.



GREG H. BOWER
Ada County Prosecuting Attorney

Ada County Mugshot - Prosecutor's Office



User: PRPICCAL



Photo Taken: 2014-02-07 06:41:07

Name: KRALOVEC, THOMAS JOHN

Case #: CR-FE-2014-0001842

LE Number: 1033218

DOB: [REDACTED]

SSN: [REDACTED]

Height: 510

Weight: 190

Drivers License Number:

Drivers License State:

Sex: M **Race:** W **Eye Color:** BRO **Hair Color:** BRO **Facial Hair:**

Marks:

Scars:

Tattoos:

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NO. _____
FILED _____
A.M. _____ P.M. _____

MAY 13 2014

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

ADA COUNTY PUBLIC DEFENDER
Attorney for Defendant
Michael Lojek
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

THOMAS JOHN KRALOVEC,

Defendant.


Case No. CR-FE-2014-0001842

**SPECIFIC REQUEST FOR
DISCOVERY**

PLEASE TAKE NOTICE that undersigned counsel, pursuant to Idaho Criminal Rule 16, requests discovery and copies of the following specific information, evidence, and/or materials within fourteen (14) days of service:

- 1) Any and all video recordings depicting the events alleged in this case
- 2) Any and all audio recordings relevant to the events alleged in this case
- 3) Medical records relating to the alleged victim's treatment for any condition caused by the alleged criminal conduct in this case

DATED this 13th day of May 2014.



MICHAEL LOJEK
Attorney for Defendant

MO

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 13th day of May 2014, I mailed a true and correct copy of the foregoing to Jill Longhurst, Ada County Prosecutor's Office, by placing the same in the Interdepartmental Mail.


Katie Van Vorhis

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>9:19:02 AM</u>		
<u>9:19:02 AM</u>		
<u>9:19:06 AM</u>		ST v THOMAS KRALOVEC CRFE14-01842 ARR BOND
<u>9:19:11 AM</u>	Kralovec	Present out of custody.
<u>9:20:11 AM</u>	JUDGE SCOTT	Advises of rights and penalties
<u>9:20:24 AM</u>	Kralovec	Waives formal reading. Confirms personal info. Understands charges and nature
<u>9:20:54 AM</u>	Def. Atty MIKE LOJEK	
<u>9:20:59 AM</u>	State Atty GEORGE GUNN	
<u>9:21:05 AM</u>	Def. Atty MIKE LOJEK	2 week set over
<u>9:21:18 AM</u>	JUDGE SCOTT	5/30/14 @ 9am <i>Exp</i>
<u>9:21:25 AM</u>		End of Case
<u>9:21:25 AM</u>		
<u>9:21:25 AM</u>		

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A.M. 11 P.M. 49

MAY 20 2014

CHRISTOPHER D. RICH, Clerk
By SARA WRIGHT
DEPUTY

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant Thomas Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842

Judge Jason D. Scott


**SUBSTITUTION OF COUNSEL
AND NOTICE OF APPEARANCE**

Eric D. Fredericksen of the firm Brady Law, Chartered, and Ada County Public Defender's Office, hereby stipulate and agree that Eric D. Fredericksen is substituted as counsel of record for Thomas John Kralovec, Defendant in all subsequent proceedings herein. All future pleadings, filings, and documentation concerning these actions should be directed to:

Eric D. Fredericksen
Brady Law, Chartered
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702


DATED this 20th day of May, 2014

ADA COUNTY PUBLIC DEFENDER


By: Michael W. Lojek
Deputy Public Defender

DATED this 20th day of May, 2014

BRADY LAW, CHARTERED

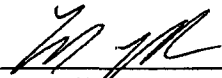

By: Eric D. Fredericksen
Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 20th day of May, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Ada County Prosecuting Attorney
Ada County Courthouse
200 W. Front Street, Suite 3191
Boise, ID 83702
(Attorney for Plaintiff)

<input checked="" type="checkbox"/>	U.S. Mail, Postage Prepaid
<input type="checkbox"/>	Express Mail
<input type="checkbox"/>	Hand Delivery
<input type="checkbox"/>	Facsimile Transmission
<input type="checkbox"/>	Federal Express
<input type="checkbox"/>	Electronic Mail



Eric D. Fredericksen

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NO. _____ FILED _____
A.M. _____ P.M. _____

MAY 23 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant Thomas Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842
Case No. CR-MD-2014-0002147

Judge Jason D. Scott

MOTION TO CONSOLIDATE


ORIGINAL

COMES NOW Defendant, Thomas Kralovec, by and through Eric D. Fredericksen of Brady Law, Chartered, and hereby moves this Court for an order consolidating the above-entitled cases. This Motion is based upon the grounds and for the reasons that the above-entitled cases arose from a related incident which occurred on February 7, 2014. The Defendant believes that consolidation of the above-entitled cases is proper for expediency and judicial economy.

MD

DATED this day 23rd of May, 2014.

BRADY LAW, CHARTERED



By: Eric D. Fredericksen
Attorney for Defendant
Thomas Kralovec

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 23rd day of May, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Ada County Prosecutor's Office
Ada County Courthouse
200 W. Front Street, Room 3191
Boise, ID 83702

☒ U.S. Mail, Postage Prepaid
☐ Express Mail
☐ Hand Delivery
☐ Facsimile Transmission
☐ Federal Express
☐ Electronic Mail

Boise City Attorney's Office
P.O. Box 500
Boise, ID 83701-0500

☒ U.S. Mail, Postage Prepaid
☐ Express Mail
☐ Hand Delivery
☐ Facsimile Transmission
☐ Federal Express
☐ Electronic Mail



Eric D. Fredericksen

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MAY 23 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant Thomas Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA
STATE OF IDAHO,
Plaintiff,
v.
THOMAS JOHN KRALOVEC,
Defendant.

Case No. CR-FE-2014-0001842

Judge Jason D. Scott

**MOTION TO CONTINUE
ENTRY OF PLEA**

ORIGINAL

COMES NOW Defendant, Thomas Kralovec, by and through Eric D. Fredericksen of Brady Law, Chartered, and hereby moves this Court for an order continuing the entry of plea hearing currently scheduled before this Court on May 30, 2014. This Motion is based upon the grounds and for the reasons that counsel for Defendant has a jury trial in Owyhee County, Idaho before the Honorable Dan C. Grober set for May 30, 2014.

MO

The undersigned counsel's unavailable dates for the next month are as follows:

June 3-6, and 10, 2014


June 12-13, 2014

June 16-19, 2014

June 27, 2014

DATED this day 23rd of May, 2014.

BRADY LAW, CHARTERED


By: Eric D. Fredericksen
Attorney for Defendant
Thomas Kralovec

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 23rd day of May, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Ada County Prosecutor's Office
Ada County Courthouse
200 W. Front Street, Room 3191
Boise, ID 83702

☒ U.S. Mail, Postage Prepaid
☐ Express Mail
☐ Hand Delivery
☐ Facsimile Transmission
☐ Federal Express
☐ Electronic Mail

Boise City Attorney's Office
P.O. Box 500
Boise, ID 83701-0500

☒ U.S. Mail, Postage Prepaid
☐ Express Mail
☐ Hand Delivery
☐ Facsimile Transmission
☐ Federal Express
☐ Electronic Mail


Eric D. Fredericksen

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NO. 10
A.M. FILED P.M.

MAY 30 2014

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Jill Longhurst
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702
Phone: (208) 287-7700
Fax: (208) 287-7707

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842

**OBJECTION TO
DEFENDANT'S MOTION TO
CONSOLIDATE FILED BY
THE ADA COUNTY
PROSECUTING ATTORNEY**

COMES NOW, Jill Longhurst, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, and hereby objects to the defendant's motion to consolidate cases CR-FE-2014 0001842 and CR-MD-2014-0002147.

These criminal actions, although possibly occurring on the same day, did not originate out of the "same act or transaction" or two or more "acts or transactions connected together" as required by I.C.R. 8(a), accordingly "consolidation" or joinder is improper.

Moreover, these criminal actions do not necessarily even involve the same witness and the charged criminal conduct is entirely distinct. These two cases involve separate criminal actions occurring at different locations and these respective criminal cases are being handled by

**OBJECTION TO DEFENDANT'S MOTION TO CONSOLIDATE FILED BY THE ADA
COUNTY PROSECUTING ATTORNEY (KRALOVEC) Page 1**

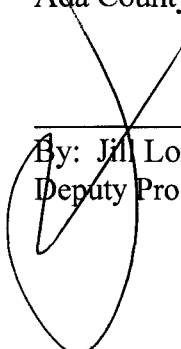
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two different prosecuting agencies. Case CR-FE-2014-0001842 involves felonious conduct occurring inside the Ada County Jail after the defendant had been arrested for unrelated conduct. This criminal action is under the jurisdiction of the Ada County Prosecuting Attorney. Case CR-MD-2014-0002147 involves misdemeanor criminal allegations unrelated to the defendant's conduct in the jail and is under the prosecution jurisdiction of the Boise City Attorney's Office. Accordingly, the defendant's motion is improper and should be denied.

DATED this 29th day of May 2014.

GREG H. BOWER
Ada County Prosecuting Attorney

By: _____
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of May 2014, I caused to be served, a true and correct copy of the foregoing Objection to Defendant's Motion to Consolidate Filed by the Ada County Prosecuting Attorney upon the individual named below in the manner noted:

Eric Frederickson
2537 W. State St., Suite 200
Boise, ID 83702

- ☒ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☒ By faxing copies of the same to said attorney(s) at the facsimile number: 322-4486
- ☐ By depositing copies of the same in the interdepartmental mail:


Legal Assistant

Time	Speaker	Note
<u>12:03:12 PM</u>		
<u>12:03:31 PM</u>		ST v THOMAS KRALOVEC CRFE14-01842 EOP (Fredricksen)BOND
<u>12:03:41 PM</u>		Defendant present in custody
<u>12:03:51 PM</u>	State Atty JILL LONGHURS T	
<u>12:03:53 PM</u>	Def. Atty - Fredricksen	Enter NG plea and request speedy trial.
<u>12:06:04 PM</u>	JUDGE SCOTT	The Court enters a Not Guilty plea. Sets this case for Jury Trial - 8/25/14 @ 9:00 am PTC - 8/8/14 @ 11:00 am Discovery - 6/30/14
<u>12:06:23 PM</u>	Def. Atty - Fredricksen	Requests to have motion to consolidate heard. I have spoken to AG about this.
<u>12:06:49 PM</u>	State Atty JILL LONGHURS T	Objects.
<u>12:07:18 PM</u>	JUDGE SCOTT	Denies hearing mtn. Counsel can notice up for seperate time or by stipulation.
<u>12:07:23 PM</u>		End of Case
<u>12:07:24 PM</u>		
<u>12:07:24 PM</u>		
<u>12:07:24 PM</u>		

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

FILED	5/30/14	AT	205A
CHRISTOPHER D. RICH CLERK OF THE DISTRICT COURT			
BY	[Signature]		Deputy Clerk

THE STATE OF IDAHO,

Plaintiff,

Case No. CR-

FE14.1842

vs.

**ORDER GOVERNING FURTHER
CRIMINAL PROCEEDINGS AND
NOTICE OF TRIAL SETTING**

Thomas Kralovec,

Defendant.

IT IS HEREBY ORDERED as follows:

- (1) Compliance date for discovery is set on or before Jun 30, 20 14.
- (2) Pretrial conference will be held on Aug 8, 20 14 at 11:00A m.
wherein defendant(s) must be personally present in court.
- (3) Jury trial will be held on Aug 25, 20 14 at 900 a.m. and shall be
scheduled for 3 days. The order of the jury panel will be drawn by lot the afternoon before
the day of trial in chambers. Counsel may be present for the drawing of the names.
- (4) Notice is hereby given, pursuant to Rule 25(a)(6), I.C.R. that an alternate judge may be assigned to
preside over the trial of this case. The following is a list of potential alternate judges:

Hon. G.D. Carey	Hon. W.H. Woodland	Hon. Dennis Goff	Hon. Ronald Wilper
Hon. Daniel C. Hurlbutt, Jr.	Hon. James Judd	Hon. Duff McKee	Hon. Renee Hoff
Hon. Michael McLaughlin	Hon. Gerald Schroeder	Hon. Kathryn Sticklen	
Hon. Darla Williamson	Hon. Gregory M. Culet	Hon. James Morfitt	

ALL SITTING FOURTH DISTRICT JUDGES

- (5) Defendant shall file all pretrial motions governed by Rule 12 of the Idaho Criminal Rules no later than fourteen (14) days after the compliance date set for discovery or otherwise show good cause, upon formal motion, why such time limits should be extended. All such motions must be brought on for hearing within fourteen (14) days after filing or forty-eight (48) hours before trial, whichever is earlier. All motions *in limine* shall be in writing and filed no later than five (5) days prior to the pretrial conference. All Motions to Suppress Evidence must be accompanied by a brief setting forth the factual basis and legal basis for the suppression of evidence.

IT IS SO ORDERED this 30 day of May, 20 14.

Defendant's Signature

Jason D. Scott
DISTRICT JUDGE

cc: Hand delivered to Defendant and Counsel

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NO. 10 FILED
A.M. 10 P.M.

JUN 04 2014

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Jill Longhurst
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702
Phone: (208) 287-7700
Fax: (208) 287-7707

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
THOMAS JOHN KRALOVEC,)
)
Defendant.)
)
_____)

Case No. CR-FE-2014-0001842

**MOTION FOR
DISQUALIFICATION OF
ALTERNATE JUDGE
PURUSANT TO I.C.R. 25(a)(6)**

COMES NOW, Jill Longhurst, Deputy Prosecuting Attorney for the County of Ada,
State of Idaho, and moves the court pursuant to I.C.R. 25(a)(6) to disqualify alternative Judge
Duff McKee.

DATED this 21 day of June 2014.

GREG H. BOWER
Ada County Prosecuting Attorney

By: Jill Longhurst
Deputy Prosecuting Attorney

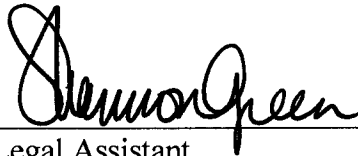
MO

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of June 2014, I caused to be served, a true and correct copy of the foregoing **MOTION FOR DISQUALIFICATION OF ALTERNATE JUDGE PURSUANT TO I.C.R. 25(a)(6)** upon the judge presiding in this matter and upon the individual(s) named below in the manner noted:

Eric Fredericksen
2537 W. State St., Suite 200
Boise, ID 83702

- ☒ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the
Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number:
- ☐ By depositing copies of the same in the interdepartmental mail:



Legal Assistant

NO. 10 FILED
A.M. PM

JUN 04 2014

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

GREG H. BOWER

Ada County Prosecuting Attorney

Jill Longhurst

Deputy Prosecuting Attorney

200 W. Front Street, Room 366

Boise, Id. 83702

Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842

REQUEST FOR DISCOVERY
AND DEMAND FOR ALIBI

TO THE ABOVE NAMED DEFENDANT:

PLEASE TAKE NOTICE that the undersigned, pursuant to Rule 16 of the Idaho Criminal Rules, requests Discovery and inspection of the following:

(1) Documents and Tangible Objects:

Request is hereby made by the prosecution to inspect and copy or photograph books, papers, documents, photographs, tangible objects or copies or portions thereof, which are

REQUEST FOR DISCOVERY AND DEMAND FOR ALIBI (KRALOVEC), Page 1

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within the possession, custody or control of the defendant, and which the defendant intends to introduce in evidence at trial.

(2) Reports of Examinations and Tests:

The prosecution hereby requests the defendant to permit the State to inspect and copy or photograph any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, within the possession or control of the defendant, which the defendant intends to introduce in evidence at the trial, or which were prepared by a witness whom the defendant intends to call at the trial when the results or reports relate to testimony of the witness.

(3) Defense Witnesses:

The prosecution requests the defendant to furnish the State with a list of names and addresses of witnesses the defendant intends to call at trial.

(4) Expert Witnesses:

The prosecution requests the defendant to provide a written summary or report of any testimony that the defense intends to introduce pursuant to Idaho Criminal Rule 16(c)(4), including the facts and data supporting the opinion and the witness's qualifications.

(5) Pursuant to Idaho Code Section 19-519, the State hereby requests that the defendant state in writing within ten (10) days any specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom he intends to rely to establish such alibi.

DATED this 21 day of June 2014.

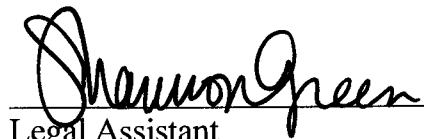
GREG H. BOWER
Ada County Prosecuting Attorney

By: _____
Jill Longhurst
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of June 2014, I caused to be served, a true and correct copy of the foregoing Request for Discovery upon Eric Fredericksen, 2537 W. State St., Suite 200, Boise, ID 83702, in the manner noted:

- ☒ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____

_____
Legal Assistant

JUN 09 2014

CHRISTOPHER D. RICH, Clerk
By AMY LANG
DEPUTY

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant, Thomas Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842

SPECIFIC DISCOVERY REQUEST

ORIGINAL

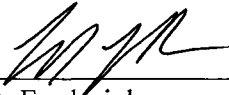
TO: THE PROSECUTING ATTORNEY FOR ADA COUNTY:

The Defendant, Thomas Kralovec, pursuant to Rule 16 of the *Idaho Criminal Rules* and the Due Process Clauses of the Constitutions of Idaho and the United States, hereby requests the following specific discovery which has not been provided as of the date of this request:

1. All medical records related to the claimed left shoulder injury of Deputy Richard Michaelson. Pursuant to this request, Defendant seeks not medical records subsequent to the incident and claimed injury, but all medical records related to Deputy Michaelson's left shoulder for the previous ten (10) years.

This request is made pursuant to Rule 16 of the *Idaho Criminal Rules* and the due process clauses of the Idaho Constitution and the United States Constitution.

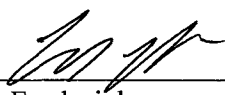
BRADY LAW, CHARTERED


By: Eric D. Fredericksen
Attorney for Thomas Kralovec

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of June, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Jill Longhurst	<input checked="" type="checkbox"/>	U.S. Mail, Postage Prepaid
Deputy Prosecuting Attorney	<input type="checkbox"/>	Express Mail
Ada County Prosecuting Attorney's Office	<input type="checkbox"/>	Hand Delivery
200 W. Front Street, Room 3191	<input type="checkbox"/>	Facsimile Transmission
Boise, ID 83702	<input type="checkbox"/>	Federal Express
(Attorney for Plaintiff)	<input type="checkbox"/>	Electronic Mail


Eric D. Fredericksen

160
NO. _____ FILED _____ 12:05
A.M. _____ P.M. _____

RECEIVED
JUN 04 2014
ADA COUNTY CLERK

JUN 09 2014
CHRISTOPHER D. RICH, Clerk
By SABRINA STOKES
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Jill Longhurst
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA


THE STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
THOMAS JOHN KRALOVEC,)
)
Defendant.)
_____)

Case No. CR-FE-2014-0001842
ORDER FOR
DISQUALIFICATION OF
ALTERNATE JUDGE
PURSUANT TO I.C.R. 25(a)(6)

The above entitled matter having come before this Court and being timely
filed,

IT IS HEREBY ORDERED that the Honorable Duff McKee shall be
disqualified as the trial judge in this matter.

DATED this 5th day of June 2014.



Judge Scott

11-8-14
NO. _____
A.M. _____ P.M. _____

JUN 10 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorney for Defendant Thomas Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842

Judge Jason D. Scott

**NOTICE OF HEARING ON
DEFENDANT'S MOTION TO
CONSOLIDATE**

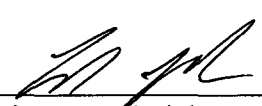
ORIGINAL

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD

YOU, AND EACH OF YOU, PLEASE TAKE NOTICE that on **the 20th day of June, 2014, at 10:00 a.m.**, or as soon thereafter as counsel may be heard, Defendant will call up and present for disposition before the Honorable Jason D. Scott, Defendant's Motion to Consolidate.

DATED this 10th day of June, 2014.

BRADY LAW, CHARTERED


By: Eric D. Fredericksen
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10th day of June, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Jill Longhurst
Deputy Prosecuting Attorney
Ada County Prosecuting Attorney's Office
200 W. Front Street, Room 3191
Boise, ID 83702
(Attorney for Plaintiff)

<input checked="" type="checkbox"/>	U.S. Mail, Postage Prepaid
<input type="checkbox"/>	Express Mail
<input type="checkbox"/>	Hand Delivery
<input type="checkbox"/>	Facsimile Transmission
<input type="checkbox"/>	Federal Express
<input type="checkbox"/>	Electronic Mail


Eric D. Fredericksen

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NO. 10
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JUN 12 2014
CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Jill Longhurst
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702-5954
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

THOMAS KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842

**MOTION TO REVOKE OR
INCREASE BOND**

COMES NOW, Jill Longhurst, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, and hereby moves the court pursuant to I.C.R. 46 to revoke or increase bond in the above entitled case due to the violations of his pretrial release program. See attached affidavit by Deputy Degroat.

DATED this 11th day of June 2014.

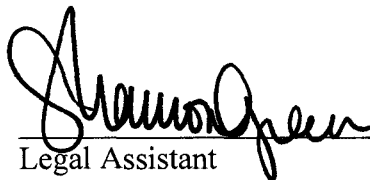
GREG H. BOWER
Ada County Prosecuting Attorney

Jill Longhurst
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of June 2014, a true and correct copy of the foregoing Motion to Revoke Bond was served to Eric Fredericksen, 2537 W. State St., Suite 200, Boise, ID 83702, in the manner noted below:

- ☒ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____



Legal Assistant

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0001842
)	
vs.)	
	)	AFFIDAVIT OF MEGAN DEGROAT
)	
Kralovec, Thomas)	
Defendant,)	
)	

State of Idaho)
) ss.
County of Ada)

Comes now, Deputy Megan DeGroat of the Ada County Sheriff's Office, a witness in the above entitled matter, being first duly sworn on oath deposes and states:

1. I am currently employed as a Pretrial Deputy with the Ada County Sheriff's Office. My current duties include supervising clients who are court-ordered to participate in various Pretrial programs through the Ada County Sheriff's Office.
2. I have knowledge of the facts relevant to the above named Defendant's alleged violations of the conditions of his bond in the above entitled case.
3. On February 7, 2014, the court ordered the Defendant to comply with pretrial conditions as a condition of bond, including no new crimes, maintain all court appearances, no possession or consumption of illegal drugs, no possession or consumption of alcohol or frequenting establishments where alcohol sales are a primary source of revenue and alcohol monitoring as determined post interview by the PSU (Pretrial Services Unit).
4. On February 12, 2014, the Defendant reported to our Pretrial Unit. He was provided an orientation by Deputy Donna Sharp and placed on random urinalysis (UA) testing for alcohol


(EtG). The Defendant reported to GDT (Global Drug Testing Lab) as instructed for his baseline and tested negative for EtG.

5. On February 25, 2014, a faxed letter was received from the Walker Center in Gooding, Idaho, confirming the Defendant's admittance to their 28 day Residential Treatment program on February 17, 2014.
6. On March 17, 2014, I met with the Defendant. He stated that he was released from the Walker Center yesterday and continuing in an outpatient program. The Walker Center was instructing him to UA test for their program, but for both drugs and alcohol. I told the Defendant that he was not court ordered through his Pretrial Release for drug testing and that he will need to pay for an additional test to provide the Walker Center with his drug test results. The Defendant authorized GDT to release his EtG results from our testing to the Walker Center.
7. On May 16, 2014, I met with the Defendant for his scheduled meeting. The Defendant notified me that he has ordered confirmatory testing on a UA he had submitted for the Walker Center on March 27, 2014. The Defendant denied any drug use or prescriptions that contained opiates. I confirmed with GDT database that the Defendant did order additional testing on his UA from March 27th, and that his test results were positive for opiates at 1326 ng/ml, the cutoff being 300 ng/ml.
8. On June 3, 2014, I met with the Defendant for his scheduled meeting. The Defendant stated that he had an appointment at the Walker Center today and asked about his confirmatory testing. I viewed his confirmatory testing from his UA on March 27, 2014, and the results showed positive for codeine at 199 ng/ml and positive for morphine at 952 ng/ml. I informed the Defendant that his confirmatory test came back positive, and reminded him that his Pretrial release conditions ordered him to no illegal drug use. I asked him again if he had taken any drugs or prescription medications. The Defendant denied any use.
9. In review of the Defendant's UA testing results, the Defendant has submitted 7 valid UA tests for 5-panel (drug) with negative results since his UA on March 27, 2014. All 23 UA tests for EtG

submitted by the Defendant have been valid with negative results. The Defendant has followed all other requirements of his Pretrial program with no violations as of this date.


10. The Ada County Sheriff's Office Pretrial Unit is recommending a motion be filed immediately pursuant to I.C. 19-2919 so the Defendant may answer to the allegations contained in this Pretrial Affidavit for Non-Compliance.

Dated this 4th day of June, 2014



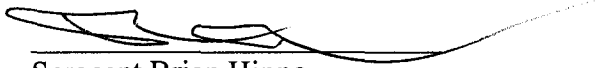
Megan DeGroat
Ada County Sheriff's Office

SUBSCRIBED AND SWORN TO before me on this 5th day of June, 2014.

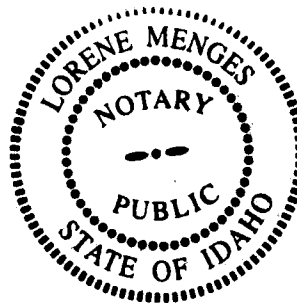


NOTARY PUBLIC FOR IDAHO
Residing at Ada, Idaho
My Commission Expires: 10-11-18

Reviewed and approved by:



Sergeant Brian Hippe
Ada County Sheriff's Office
Pretrial Services
7180 Barrister
Boise, Idaho 83704



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NO. _____
FILED _____
A.M. _____ P.M. _____

JUN 13 2014

CHRISTOPHER D. RICH, Clerk
By AMY LANG
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Jill Longhurst
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Id. 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0001842
)	
vs.)	
	)	NOTICE OF HEARING
THOMAS JOHN KRALOVEC,)	
)	
Defendant.)	

TO: Eric Fredericksen, defendant's attorney of record, you will please take notice that on the 20th day of June 2014, at the hour of 10:00 a.m. of said day, or as soon thereafter as counsel can be heard, Deputy Prosecuting Attorney Jill Longhurst will move this Honorable Court regarding the State's Motion to Revoke Bond in the above-entitled action.

DATED this 13 day of June 2014.

GREG H. BOWER
Ada County Prosecuting Attorney

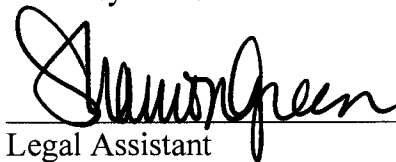
By: Jill Longhurst
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of June 2014, I caused to be served, a true and correct copy of the foregoing Notice of Hearing upon the individual named below in the manner noted:

Eric Fredericksen
2537 W. State St., Suite 200
Boise, ID 83702

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☒ By faxing copies of the same to said attorney at the fax number: 322-44860



Legal Assistant

1/20
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6/20
10:00

NO. _____ FILED _____
A.M. _____ P.M. **213**

JUN 17 2014

CHRISTOPHER D. RICH, Clerk
By SARA WRIGHT
DEPUTY

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant, Thomas Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842

Judge Jason D. Scott

**DEFENDANT'S RESPONSE TO
STATE'S REQUEST FOR DISCOVERY**

ORIGINAL

COMES NOW, the above named Defendant, Thomas Kralovec, by and through his attorney of record, Eric D. Fredericksen, and pursuant to Rule 16, *Idaho Criminal Rules*, hereby responds to the State's Request for Discovery as follows:

- (1) Documents and Tangible Objects:

Request is hereby made by the prosecution to inspect and copy or photograph books, papers, documents, photographs, tangible objects or copies or portions thereof, which are within the possession, custody or control of the defendant, and which the defendant intends to introduce in evidence at trial.

SW

RESPONSE TO REQUEST NO. 1: The Defendant reserves the right to offer into evidence any documents and/or tangible objects produced, identified or disclosed by the State in any of its formal or informal Responses to the Defendant's Request for Discovery, including any Addendums or Supplemental Responses thereto.

(2) Reports of Examinations and Tests:

The prosecution hereby requests the defendant to permit the State to inspect and copy or photograph any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, within the possession or control of the defendant, which the defendant intends to introduce in evidence at the trial, or which were prepared by a witness whom the defendant intends to call at the trial when the results or reports relate to testimony of the witness.

RESPONSE TO REQUEST NO. 2: The Defendant reserves the right to offer into evidence any results or reports of physical or mental examinations and/or scientific tests or experiments made in connection with this case produced, identified or disclosed by the State in any of its formal or informal Responses to the Defendant's Request for Discovery, including any Addendums or Supplemental Responses thereto.

(3) Defense Witnesses:

The prosecution requests the defendant to furnish the State with a list of names and addresses of witnesses the defendant intends to call at trial.

RESPONSE TO REQUEST NO. 3: The Defendant reserves the right to call, as witnesses at trial, any persons named, identified or disclosed by the State in any of its formal or informal Responses to the Defendant's Request for Discovery, including any Addendums or Supplemental Responses thereto. The Defendant does not, by this response waive, and in fact expressly reasserts his right to remain silent as guaranteed by the Fifth Amendment to the United States Constitution and/or Article 1, Section 13 of the Idaho Constitution.

(4) Expert Witnesses:

The prosecution requests the defendant to provide a written summary or report of any testimony that the defense intends to introduce pursuant to *Idaho Criminal Rule 16(c)(4)*, including the facts and data supporting the opinion and the witness's qualifications.

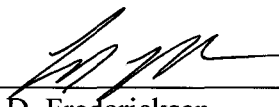
RESPONSE TO REQUEST NO. 4: At this time, the Defendant has not identified any expert witnesses he intends to call at trial. In the event the Defendant deems any expert witness to be necessary, the Defendant will supplement his discovery response. Additionally, the Defendant reserves the right to call, as expert witnesses at trial, any expert witnesses named, identified or disclosed by the State in any of his formal or informal Responses to the Defendant's Request for Discovery, including any Addendums or Supplemental Responses thereto.

(5) Pursuant to Idaho Code Section 19-519, the State hereby requests that the defendant state in writing within ten (10) days any specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom he intends to rely to establish such alibi.

RESPONSE TO REQUEST NO. 5: Not applicable.

DATED this day 17th of June, 2014.

BRADY LAW, CHARTERED


By: Eric D. Fredericksen
Attorney for Defendant
Thomas Kralovec

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 17th day of June, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Jill Longhurst
Deputy Prosecuting Attorney
Ada County Prosecuting Attorney's Office
200 W. Front Street, Room 3191
Boise, ID 83702
(Attorneys for Plaintiff)

<input checked="" type="checkbox"/>	U.S. Mail, Postage Prepaid
<input type="checkbox"/>	Express Mail
<input type="checkbox"/>	Hand Delivery
<input type="checkbox"/>	Facsimile Transmission
<input type="checkbox"/>	Federal Express
<input type="checkbox"/>	Electronic Mail


Eric D. Fredericksen

1. The full name of the victim, his address, next of kin or family contact information, social security and insurance information.
2. Personal medical history and information not related to the injury being treated such as any medications, current or past blood tests, family medical history, and unrelated medical conditions or situations recorded in any of the victim's medical records.
3. Workman's compensation records.
4. All prior medical records or information unrelated to the current injury.

The State believes that individuals are entitled to personal privacy interests as reflected legislation such as HIPAA and statutes which prevent the disclosure of individual medical records, certain blood tests and addiction treatments and that an individual does not forfeit these privacy interests when they become victims of violent crime thereby entitling a criminal defendant full access to private and personal information not otherwise available. See e.g. I.C. § 9-340B; I.C. 39-308; I.C. 39-606; I.C.R. 16(d).

Moreover, certain personnel as specified in I.C. §18-915, including in particular law enforcement officers like the victim in this case, have a heightened personal privacy and safety concern relating to their medical history and personal identification materials, their family members names and locations, their home address and other private personal information which would unduly compromise their personal safety and their family's personal safety if disclosed and afford criminal defendants access and the ability to publicize private information. See e.g. I.C. §19-5803; I.C. 9-340C; I.C. 9-340B; *Nation v. State Department of Correction*, 144 Idaho 177, 158 P.3d 953 (2007).

Finally the disclosure of these materials would place the crime victim in a situation where others may use sensitive personal information to further subject him to physical, economic or other harm. I.C.R. 16(l).

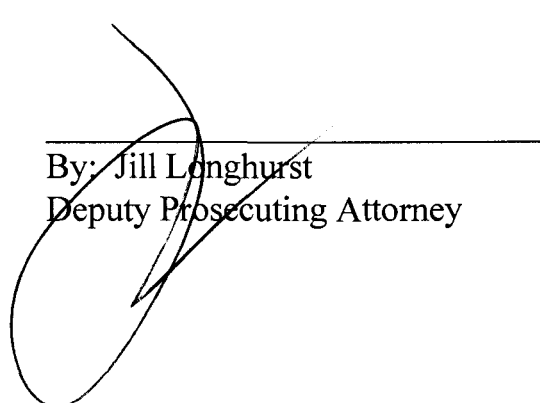
Therefore, the State moves this court for an order permitting the State to redact all sensitive materials from the medical records of Deputy Michelson in the instant case including the personal information and medical history of the officer prior to providing any discovery of these medical records to counsel. Additionally, the State moves the court for an order limiting the discovery of records and materials to any medical treatment provided as a result of the defendant's criminal actions the State alleges occurred on or about February 7, 2014.

As required by I.C.R. 16(1), if after the initial hearing on this motion, the Court does not find that the information referenced in this motion is sufficient, the State asks the court for additional time to either submit written materials to the court under seal or to conduct an evidentiary hearing relating to the security risks involved when a law enforcement officer's personal data is disclosed to a criminal defendant and his counsel.

RESPECTFULLY SUBMITTED this 18 day of June 2014.

GREG H. BOWER

Ada County Prosecuting Attorney

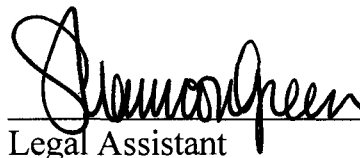
By: 
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of June 2014, I caused to be served, a true and correct copy of the foregoing Motion for Protective Order upon the individual named below in the manner noted:

Eric Fredericksen
2537 W. State St., Suite 200
Boise, ID 83702

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☒ By faxing copies of the same to said attorney at the fax number: **322-4486**



Legal Assistant

JUN 17 2014

CHRISTOPHER D. RICH, Clerk
By SARA WRIGHT
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Jill Longhurst
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0001842
)	
vs.	)	OBJECTION TO
	)	DEFENDANT'S SPECIFIC
THOMAS JOHN KRALOVEC,	)	REQUEST FOR DISCOVERY
)	
Defendant.)	
_____)	

COMES NOW, Jill Longhurst, Deputy Prosecuting Attorney for Ada County,
State of Idaho, and hereby objects to the Defendant's Specific Request for Discovery filed
on or about June 10, 2014 for the following reasons:

1. The Defendant seeks information not in the possession of the Prosecution.
2. The Defendant seeks information which the State believes should be
protected pursuant to I.C.R. 16(l) and that State is seeking a protective order
for this and other materials through a separate motion.

OBJECTION TO DEFENDANT'S SPECIFIC REQUEST FOR DISCOVERY
(KRALOVEC), Page 1

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3. The Defendant is seeking personal information from a crime victim which is far beyond the scope of relevant information for the crime charged. Currently, the defendant is charged with committing an act of force or violence on a law enforcement officer in violation of I.C. §18-915(3). This crime does not require that the State prove the extent of any injury as would be relevant if the defendant was charged, or is charged in the future, with a violation of I.C. §18-915(1)(a) – battery with the intent to commit a serious felony, or with a crime relating to aggravated battery, I.C. §18-907(a) then the extent of the injury is relevant and limited materials relating to the defendant's request for discovery may have some marginal relevance.

Accordingly, the State objects to the Defendant's Specific Request for Discovery.

DATED this 16 day of June 2014.

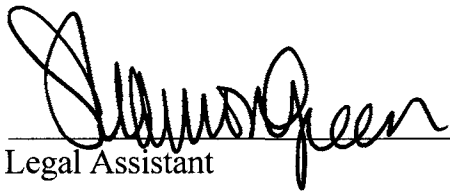
GREG H. BOWER
Ada County Prosecuting Attorney

By:  _____
Jill Longhurst
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of ~~May~~ ^{June} 2014, a true and correct copy of the foregoing State's Objection to Defendant's Request for Discovery was served to Eric Fredericksen, 2537 W. State St., Suite 200, Boise, ID 83702, in the manner noted below:

- ☐ *By depositing copies of the same in the United States mail, postage prepaid, first class.*
- ☐ *By depositing copies of the same in the Interdepartmental Mail.*
- ☐ *By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.*
- ☒ *By faxing copies of the same to said attorney(s) at the facsimile number: 322-4186*


Legal Assistant

JUN 17 2014

CHRISTOPHER D. RICH, Clerk
By SARA WRIGHT
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Jill Longhurst
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Id. 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0001842
)	
vs.)	
	)	NOTICE OF HEARING
THOMAS JOHN KRALOVEC,)	
)	
Defendant.)	

TO: Eric Fredericksen, defendant's attorney of record, you will please take notice that on the 20th day of June 2014, at the hour of 10:00 a.m. of said day, or as soon thereafter as counsel can be heard, Deputy Prosecuting Attorney Jill Longhurst will move this Honorable Court regarding the State's Motion for Protective Order in the above-entitled action.

DATED this 10 day of June 2014.

GREG H. BOWER
Ada County Prosecuting Attorney

By: Jill Longhurst
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of June 2014, I caused to be served, a true and correct copy of the foregoing Notice of Hearing upon the individual named below in the manner noted:

Eric Fredericksen
2537 W. State St., Suite 200
Boise, ID 83702

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☒ By faxing copies of the same to said attorney at the fax number: **322-4486**



Legal Assistant

Time	Speaker	Note
<u>11:08:10 AM</u>		ST v THOMAS KRALOVEC CRFE14-01842 CONSOLIDATE (Fredricksen)BOND
<u>11:08:12 AM</u>	Cousneel	Longhurst/Fredricksen
<u>11:08:18 AM</u>		
<u>11:08:29 AM</u>	Fredricksen	w/d motion to consolidate
<u>11:08:45 AM</u>	Longhurst	ask for protective order but will redact it
<u>11:09:12 AM</u>	Fredricksen	concur
<u>11:09:22 AM</u>	Longhurst	argues motion to revoke bond
<u>11:09:41 AM</u>	Fredricksen	will call witnesses
<u>11:09:48 AM</u>	ct	inquires
<u>11:09:53 AM</u>	longhurst	concur
<u>11:10:00 AM</u>	Fredricksen	calls Margaret Kralovec, sworn in, direct exam
<u>11:13:06 AM</u>	Longhurst	obj to expert, no foundation
<u>11:13:19 AM</u>	ct	lay additional foundation
<u>11:13:34 AM</u>	Longhurst	obj beyond scope
<u>11:13:44 AM</u>	ct	sustained
<u>11:13:59 AM</u>	longhurst	obj beyond scope
<u>11:14:19 AM</u>	ct	sustained
<u>11:14:27 AM</u>	Fredricksen	rest
<u>11:14:36 AM</u>	Longhurst	cross exam
<u>11:14:44 AM</u>	Fredricksen	obj beyond scope
<u>11:14:59 AM</u>	ct	overruled
<u>11:15:02 AM</u>	Longhurst	cross exam
<u>11:16:32 AM</u>	Longhurst	rest
<u>11:16:37 AM</u>	ct	excuses the witness
<u>11:16:44 AM</u>	Fredricksen	calls Mr. Lorine Beals, Sworn in, direct exam
<u>11:19:27 AM</u>	Longhurst	obj foundation
<u>11:19:50 AM</u>	Ct	responds
<u>11:20:02 AM</u>	Fredricksen	cross exam
<u>11:22:13 AM</u>	Longhurst	obj foundation, voir dire aid of obj
<u>11:30:17 AM</u>	Fredricksen	inquires on the qualification
<u>11:30:30 AM</u>	ct	inclined but will take into account
<u>11:30:44 AM</u>	Fredricksen	direct exam

<u>11:31:34 AM</u>	Longhurst	obj relevance
<u>11:31:44 AM</u>	ct	overruled
<u>11:31:51 AM</u>	Fredricksen	direct exam
<u>11:34:49 AM</u>	Longhurst	obj
<u>11:34:54 AM</u>	ct	comments
<u>11:35:38 AM</u>	Longhurst	cross exam
<u>11:36:52 AM</u>	ct	excuses the witness .
<u>11:36:59 AM</u>	Fredricksen	hands court letter of
<u>11:37:43 AM</u>	Longhurst	argues motion
<u>11:39:06 AM</u>	Fredricksen	argues motion
<u>11:40:02 AM</u>	Longhurst	argues
<u>11:41:01 AM</u>	ct	ruling Molton Denied

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NO. _____
A.M. _____ FILED P.M. _____

GREG H. BOWER
Ada County Prosecuting Attorney

JUL - 2 2014

CHRISTOPHER D. RICH, Clerk
By **SHERRI BOUCHER**
DEPUTY

Jill Longhurst
Deputy Prosecuting Attorney
602 West Idaho Street
Boise, Idaho 83702-5954
Telephone: (208) 364-2121

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
THOMAS JOHN KRALOVEC,)
)
Defendant.)
_____)

Case No. CR-FE-2014-0001842
NOTICE OF INTENT TO USE
404(b) EVIDENCE

COMES NOW, Jill Longhurst, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, and hereby gives notice to the Court and Counsel for the Defense, that the State may seek to introduce evidence which pursuant to Idaho Rule of Evidence 404(b) regarding statements and threats to do physical harm to Boise City Officer/s prior to his being taken to jail as well as Officer Miller's caution that it would not be a good thing for the defendant to try to harm him. These statements also include the frequent and excessive use of vulgarity and calling the officer names, threats to spit in the patrol car followed up by spitting and threats to cause damage to the officer's patrol vehicle and the

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defendant's defiant response to Officer Miller's explanations that damaging a patrol car could be a felony charge. The defendant's statements and comments were recorded and the state believes that the entirety of these recordings is relevant and necessary to keep the nature and intent of the defendant's statement in context.

The State would introduce this evidence to demonstrate the defendant's knowledge that he was in contact with law enforcement officers who were in the performance of their duty and to demonstrate his intent to use force or violence on the victim of this crime, Deputy Michaelson.

DATED this 30 day of June 2014.

GREG H. BOWER
Ada County Prosecuting Attorney


By: JM Longhurst
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of June 2014, I caused to be served, a true and correct copy of the foregoing Notice of Intent to Use 404(b) Evidence upon the individual named below in the manner noted:

Eric Fredericksen
2537 W. State St., Suite 200
Boise, ID 83702

- ☒ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney at the fax number:



Legal Assistant

NO. _____
A.M. _____ P.M. _____

JUL - 2 2014

CHRISTOPHER D. RICH, Clerk
By **SHERRI BOUCHER**
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Jill Longhurst
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Id. 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)

Plaintiff,)

vs.)

THOMAS JOHN KRALOVEC,)

Defendant.)

Case No. CR-FE-2014-0001842

NOTICE OF HEARING

TO: Eric Fredericksen, defendant's attorney of record, you will please take notice that on the 8th day of August 2014, at the hour of 11:00 a.m. of said day, or as soon thereafter as counsel can be heard, Deputy Prosecuting Attorney Jill Longhurst will move this Honorable Court regarding the State's Notice of Intent to Use 404(b) Evidence in the above-entitled action.

DATED this 30 day of June 2014.

GREG H. BOWER
Ada County Prosecuting Attorney

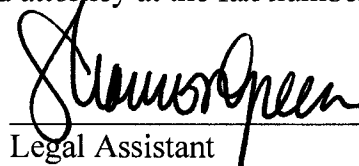
By: Jill Longhurst
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of June 2014, I caused to be served, a true and correct copy of the foregoing Notice of Hearing upon the individual named below in the manner noted:

Eric Fredericksen
2537 W. State St., Suite 200
Boise, ID 83702

- ☒ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney at the fax number:



Legal Assistant

160
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NO. _____
A.M. _____ FILED P.M. 475

JUL 15 2014

CHRISTOPHER D. RICH, Clerk
By AMY LANG
DEPUTY

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant Thomas John Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842

Judge Jason D. Scott

MOTION TO COMPEL DISCOVERY

ORIGINAL

COMES NOW, the above-named Defendant, Thomas John Kralovec, by and through his counsel of record, Eric D. Fredericksen and the law firm of Brady Law, Chartered, pursuant to Idaho Criminal Rule 16(f)(1) & (2) hereby files this *Motion for Order Compelling Production of Documents Requested in Defendant's Specific Discovery Request*.

This motion is supported by the documents and other items on file in this matter. Defendant, Mr. Kralovec will submit oral argument in support of this Motion.

Wherefore, the above named defendant respectfully requests this Court enter an Order compelling the Ada County Prosecuting Attorney's Office to comply in full with Mr. Kralovec's Specific Discovery Request dated June 9, 2014.


CERTIFICATE OF COMPLIANCE

Defendant's counsel has in good faith conferred or attempted to confer with Plaintiff's counsel in an effort to secure the disclosure without court action. Defendant's counsel has been unable to resolve the dispute with Plaintiff's counsel concerning the receipt of the discovery requested.

ORAL ARGUMENT IS REQUESTED.

DATED this 15th day of July, 2014.

BRADY LAW, CHARTERED




By: Eric D. Fredericksen,
Attorneys for Defendant
Thomas John Kralovec

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15th day of July, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Jill Longhurst	<input checked="" type="checkbox"/>	U.S. Mail, Postage Prepaid
Deputy Prosecuting Attorney	<input type="checkbox"/>	Express Mail
Ada County Prosecuting Attorney's Office	<input type="checkbox"/>	Hand Delivery
200 W. Front Street, Room 3191	<input type="checkbox"/>	Facsimile Transmission
Boise, ID 83702	<input type="checkbox"/>	Federal Express
<i>(Attorneys for Plaintiff)</i>	<input type="checkbox"/>	Electronic Mail



Eric D. Fredericksen

160
8/18
11-
BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

NO. _____ FILED _____
A.M. _____ P.M. _____

JUL 24 2014

CHRISTOPHER D. RICH, Clerk
by KATRINA CHRISTENSEN
DEPUTY

Attorneys for Defendant Thomas John Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842

Judge Jason D. Scott

**NOTICE OF HEARING ON
DEFENDANT'S MOTION TO
COMPEL DISCOVERY**


ORIGINAL

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD

YOU, AND EACH OF YOU, PLEASE TAKE NOTICE that on the 8th day of August, 2014, at 11:00 a.m., or as soon thereafter as counsel may be heard, Defendant will call up and present for disposition before the Honorable Judge Jason D. Scott, Defendant's Motion to Compel Discovery.

DATED this 24th day of July, 2014.

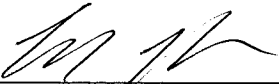
BRADY LAW, CHARTERED


By: Eric D. Fredericksen,
Attorneys for Defendant
Thomas John Kralovec

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 24th day of July, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Jill Longhurst	<input checked="" type="checkbox"/>	U.S. Mail, Postage Prepaid
Deputy Prosecuting Attorney	<input type="checkbox"/>	Express Mail
Ada County Prosecuting Attorney's Office	<input type="checkbox"/>	Hand Delivery
200 W. Front Street, Room 3191	<input type="checkbox"/>	Facsimile Transmission
Boise, ID 83702	<input type="checkbox"/>	Federal Express
(Attorneys for Plaintiff)	<input type="checkbox"/>	Electronic Mail



Eric D. Fredericksen

160
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11

NO. 118 FILED
A.M. 11 P.M. 8

JUL 29 2014

CHRISTOPHER D. RICH, Clerk
By SARA WRIGHT
DEPUTY

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant, Thomas Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842

Judge Jason D. Scott

THOMAS KRALOVEC'S ASSERTION
OF LAWYER-CLIENT PRIVILEGE AND
STATEMENT IN SUPPORT THEREOF

ORIGINAL

Thomas Kralovec, by and through his attorneys of record, Brady Law, Chartered, hereby formally asserts his *Idaho Rule of Evidence* 502 lawyer-client privilege.¹ It is undersigned

¹ This issue is addressed separately under Rule 1.6 of the Idaho Rules of Professional Conduct, which provides:

(a) A lawyer shall not reveal information relating to representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

(b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

(1) to prevent the client from committing a crime, including disclosure of the intention to commit a crime;

THOMAS KRALOVEC'S ASSERTION OF LAWYER-CLIENT PRIVILEGE AND
STATEMENT IN SUPPORT THEREOF - Page 1

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counsel's understanding that Heidi Koonce, Deputy Ada County Public Defender has been subpoenaed by the Ada County Prosecutor's Office to provide testimony related, in some fashion to her representation and/or interactions with Mr. Kralovec, during the period of time she represented Mr. Kralovec prior to our involvement in the case. Under I.R.E. 502:

"[a] client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client which were made (1) between the client or the client's representative and the client's lawyer, or the lawyer's representative, (2) between the client's lawyer and the lawyer's representative, (3) among clients, their representatives, their lawyers, or their lawyers' representatives, in any combination, concerning a matter of common interest, but not including communications solely among clients or their representatives when no lawyer is a party to the communication, (4) between representatives of the client or between the client and a representative of the client, or (2) among lawyers and their representatives representing the same client.


Id.

Based upon the foregoing, Mr. Kralovec specifically exercises his privilege to prevent the Ada County Public Defender's Office from disclosing any confidential communications during its representation of him.

-
- (2) to prevent reasonably certain death or substantial bodily harm;
 - (3) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime in furtherance of which the client has used the lawyer's services;
 - (4) to secure legal advice about the lawyer's compliance with these Rules;
 - (5) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of a client;
 - (6) to comply with other law or a court order; or
 - (7) to detect and resolve conflicts of interest arising from the lawyer's change of employment or from changes in the composition or ownership of a firm, but only if the revealed information would not compromise the attorney-client privilege or otherwise prejudice the client.

DATED this 28th day of July, 2014.

BRADY LAW, CHARTERED

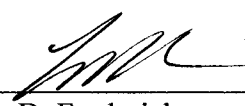

By: Eric D. Fredericksen
Attorney for Defendant
Thomas Kralovec

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 28th day of July, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Jill Longhurst
Deputy Prosecuting Attorney
Ada County Prosecuting Attorney's Office
200 W. Front Street, Room 3191
Boise, ID 83702
(Attorneys for Plaintiff)

<input checked="" type="checkbox"/>	U.S. Mail, Postage Prepaid
<input type="checkbox"/>	Express Mail
<input type="checkbox"/>	Hand Delivery
<input type="checkbox"/>	Facsimile Transmission
<input type="checkbox"/>	Federal Express
<input type="checkbox"/>	Electronic Mail


Eric D. Fredericksen

JUL 29 2014

CHRISTOPHER D. RICH, Clerk
By SARA WRIGHT
DEPUTY

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant Thomas John Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842

Judge Jason D. Scott

**NOTICE OF HEARING ON
DEFENDANT'S ASSERTION OF
LAWYER-CLIENT PRIVILEGE**

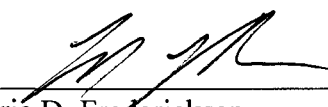
ORIGINAL

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD

YOU, AND EACH OF YOU, PLEASE TAKE NOTICE that on the 8th day of August, 2014, at 11:00 a.m., or as soon thereafter as counsel may be heard, Defendant will call up and present for disposition before the Honorable Judge Jason D. Scott, Defendant's Assertion of Lawyer-Client Privilege.

DATED this 29th day of July, 2014.

BRADY LAW, CHARTERED

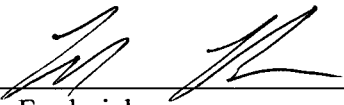

By: Eric D. Fredericksen,
Attorneys for Defendant
Thomas John Kralovec

NOTICE OF HEARING ON DEFENDANT'S ASSERTION OF LAWYER-CLIENT PRIVILEGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 29th day of July, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Jill Longhurst	<input checked="" type="checkbox"/>	U.S. Mail, Postage Prepaid
Deputy Prosecuting Attorney	<input type="checkbox"/>	Express Mail
Ada County Prosecuting Attorney's Office	<input type="checkbox"/>	Hand Delivery
200 W. Front Street, Room 3191	<input type="checkbox"/>	Facsimile Transmission
Boise, ID 83702	<input type="checkbox"/>	Federal Express
<i>(Attorneys for Plaintiff)</i>	<input type="checkbox"/>	Electronic Mail



Eric D. Fredericksen

NOTICE OF HEARING ON DEFENDANT'S ASSERTION OF LAWYER-CLIENT PRIVILEGE

- Page 2

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NO. _____ FILED _____
A.M. _____ P.M. _____

JUL 30 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant Thomas Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842

Judge Jason D. Scott

DEFENDANT'S MOTION *IN LIMINE*

ORIGINAL

COMES NOW, Defendant, Thomas Kralovec, by and through his attorney of record, Eric D. Fredericksen of Brady Law, Chartered, and moves this Court *in limine* to exclude any reference to the complaining witness, Deputy Richard Michaelson. Specifically, Defendant respectfully moves that the Ada County Prosecuting Attorney, its witnesses, and the Court not refer to the complaining witnesses as a "victim."

DISCUSSION

In this case, Defendant is charged with assault or battery upon certain personnel. Defendant has entered a not guilty plea and asserts that the incident, as alleged by the complaining witness, did not occur.

DEFENDANT'S MOTION *IN LIMINE* - Page 1

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In Idaho, “victim” is a term of art that carries with it legal consequences. *See* Idaho Const. Art. I § 22. The Idaho Constitution provides, however, that “victim” is a term that is to be defined by statute. *Id.* Pursuant to the Constitution, the Legislature has chosen to define “victim” in two places in the Idaho Code. One definition is “the person . . . who suffers economic loss or injury as a result of the defendant’s criminal conduct.” I.C. § 19-5304(1)(e)(i). The other definition is “a person who suffers injury . . . as a result of . . . criminally injurious conduct” I.C. § 72-1003(7)(a). Each of these definitions requires that there be criminal conduct, and the conclusion that there has been criminal conduct cannot be definitively reached until a jury has returned its verdict.

As the case stands today, as a matter of law, there is no “victim” at all. The State has yet to present evidence that a victim exists. *See* I.C.J.I. 103 (The presumption of innocence means “the state has the burden of proving the defendant guilty. The state has that burden throughout the trial. The defendant is never required to prove his innocence, nor does the defendant ever have to produce any evidence at all.”). Use of this term presupposes the existence of elements that the State must prove and therefore deprives Defendant of his fundamental right to require the State to prove every element of the charges beyond a reasonable doubt.

Furthermore, where the occurrence of the criminal conduct is in dispute, it is unfairly prejudicial to Defendant to have the complaining witness referred to as a “victim.” At least one state court has held that the use of the term “victim” should be restricted where, as here, the Defendant denies committing any crimes. In *State of Utah v. Devey*, 138 P.3d 90, 552 Utah Adv. Rep. 50 (2006), the court held that “. . . in cases such as this – where a defendant claims that the charged crime did not actually occur, and the allegations against the defendant are based almost exclusively on the complaining witness’s testimony – the trial court, the State and all witnesses should be prohibited from referring to the complaining witnesses as ‘the victims.’” The issue at hand is whether or not the alleged incidents occurred and whether the Defendant committed a crime. “The sole issue of [the defendant’s] case was whether he committed the various assaults on [the child]. Referring to [the child] as the victim instead of the alleged victim lends credence to her testimony that the assaults occurred and that she was, indeed, a victim.”

Id. at 95, (citing *Veteto v. State*, 8 S.W. 3d 805, 816-17 (Tex. App. 2000)). In other words, where the occurrence of criminal conduct is in dispute, the Defendant is unfairly prejudiced by the use of the term “victim” because it lends credibility to the complaining witness.


If a crime has not been committed, the complaining witness would not be a “victim” as the term is defined by the Idaho Code. Furthermore, since Defendant has the right to the presumption of innocence as provided to him by the Constitution, by referring to a complaining witness as a “victim,” it removes that presumption by implying that Defendant has committed a crime. Such an implication is unfairly prejudicial to Defendant and the jury would likely believe that he would have had to have committed a crime for there to be a “victim.” Consequently, the Court should disallow the use of the term “victim” during Defendant’s trial.

CONCLUSION

For the foregoing reasons, Defendant respectfully requests that the prosecution, any of its witnesses, and the Court be barred from referring to any of the complaining witnesses as a “victim” during the course of these proceedings.

DATED this 31st day of July, 2014.

BRADY LAW, CHARTERED

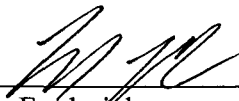


By: Eric D. Fredericksen
Attorney for Defendant
Thomas Kralovec

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3rd day of July, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Jill Longhurst	<input checked="" type="checkbox"/>	U.S. Mail, Postage Prepaid
Deputy Prosecuting Attorney	<input type="checkbox"/>	Express Mail
Ada County Prosecuting Attorney's Office	<input type="checkbox"/>	Hand Delivery
200 W. Front Street, Room 3191	<input type="checkbox"/>	Facsimile Transmission
Boise, ID 83702	<input type="checkbox"/>	Federal Express
(Attorneys for Plaintiff)	<input type="checkbox"/>	Electronic Mail



Eric D. Fredericksen

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

NO. _____
A.M. _____ P.M. _____
FILED 380

JUL 30 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

Attorneys for Defendant Thomas John Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842

Judge Jason D. Scott

**NOTICE OF HEARING ON
DEFENDANT'S MOTION *IN LIMINE***

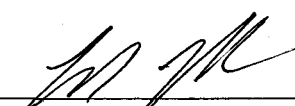
ORIGINAL

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD

YOU, AND EACH OF YOU, PLEASE TAKE NOTICE that on the 8th day of August, 2014, at 11:00 a.m., or as soon thereafter as counsel may be heard, Defendant will call up and present for disposition before the Honorable Judge Jason D. Scott, Defendant's Motion *in Limine*.

DATED this 30th day of July, 2014.

BRADY LAW, CHARTERED

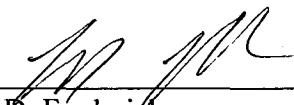

By: Eric D. Fredericksen,
Attorneys for Defendant
Thomas John Kralovec

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30th day of July, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Jill Longhurst
Deputy Prosecuting Attorney
Ada County Prosecuting Attorney's Office
200 W. Front Street, Room 3191
Boise, ID 83702
(Attorneys for Plaintiff)

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<input type="checkbox"/>	Facsimile Transmission
<input type="checkbox"/>	Federal Express
<input type="checkbox"/>	Electronic Mail



Eric D. Fredericksen

NO.

A.M.

FILED

P.M.

JUL 30 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant Thomas Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842

Judge Jason D. Scott

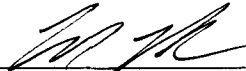
**OBJECTION TO STATE'S NOTICE OF
INTENT TO USE 404(b) EVIDENCE**

ORIGINAL

COMES NOW, the Defendant, Thomas Kralovec, by and through his attorneys of record, hereby objects to the State's Notice of Intent to Use 404(b) Evidence where the statements are not relevant to any issue in the case, unduly prejudicial, and are offered for no other purpose than propensity evidence. The State's argument that the "entirety of these recordings are relevant" especially considering that the State has already argued, in objecting to Mr. Kralovec's Motion to Consolidate, that the case wherein these statements were made "involves misdemeanor allegations unrelated to the defendant's condition in jail" Mr. Kralovec's objection is supported by a Memorandum in Support of Objection to State's Notice of Intent to Use 404(b) Evidence.

DATED this 30th day of July, 2014.

BRADY LAW, CHARTERED



By: Eric D. Fredericksen
Attorney for Defendant
Thomas Kralovec

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30th day of July, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Jill Longhurst
Deputy Prosecuting Attorney
Ada County Prosecuting Attorney's Office
200 W. Front Street, Room 3191
Boise, ID 83702
(Attorneys for Plaintiff)

<input checked="" type="checkbox"/>	U.S. Mail, Postage Prepaid
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<input type="checkbox"/>	Facsimile Transmission
<input type="checkbox"/>	Federal Express
<input type="checkbox"/>	Electronic Mail


Eric D. Fredericksen

JUL 30 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant Thomas Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842

Judge Jason D. Scott

**DEFENDANT'S MEMORANDUM IN
SUPPORT OF OBJECTION TO STATE'S
NOTICE OF INTENT TO USE 404(b)
EVIDENCE**

ORIGINAL

A. Introduction

The State has filed a Notice of Intent to Use 404(b) Evidence. It appears the State is asking this Court to allow the jury to listen to Officer Miller's audio of his contact and arrest of Mr. Kralovec earlier in the night/the previous night for public intoxication and resisting arrest. In its motion, the State writes,

The defendant's statements and comments were recorded and the state believes that the entirety of these recordings is [sic] relevant and necessary to keep the nature and intent of the defendant's statement in context.

**DEFENDANT'S MEMORANDUM IN SUPPORT OF OBJECTION TO STATE'S NOTICE OF
INTENT TO USE 404(b) EVIDENCE - Page 1**

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The State would introduce this evidence to demonstrate defendant's knowledge that he was in contact with law enforcement officers who were in the performance of their duty and to demonstrate his intent to use force or violence on the victim of this crime, Deputy Michaelson.

(Notice of Intent to Use 404(b) Evidence, p.2.)

The Defendant would glean from the State's motion that it intends to seek admission of this propensity evidence under the guise of "common scheme or plan," intent, or knowledge.

B. Applicable Legal Standards

The *Idaho Rules of Evidence* provide that, generally speaking, evidence of "other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that the person acted in conformity therewith." I.R.E. 404(b). However, such evidence may be admitted "for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident" *Id.*

Under I.R.E. 404(b), there is a two-tiered analysis for determining the admissibility of "prior bad act" evidence. *State v. Grist*, 147 Idaho 49, 52 (2009). The court must first "determine whether there is sufficient evidence to establish the other crime or wrong as fact" and "whether the fact of another crime or wrong, if established, would be relevant . . . to a material and disputed issue concerning the crime charged, *other than propensity*." *Id.* If the evidence is insufficient to establish the other crime or wrong as fact, or if the other crime or wrong, even if proven, is not relevant to an issue other than character or propensity, it is inadmissible and the inquiry ends. *See Id.* However, if the evidence is sufficient to prove the other crime or wrong, and that crime or wrong is relevant to some valid issue, the court must then "engage in a balancing under I.R.E. 403 and determine whether the danger of unfair prejudice substantially outweighs the probative value of the evidence." *Id.*

C. The State's Proposed Evidence Of Unrelated Bad Acts Of Mr. Kralovec Is Not Admissible Pursuant To Rules 401, 402, 403, And 404 Of The Idaho Rules Of Evidence

The State seeks to present to the jury an audio recording of Officer Miller's arrest of Mr. Kralovec for public intoxication and resisting and obstructing that occurred the night

prior/the morning of the incident that is the subject of this case. For the reasons stated herein, the proposed evidence is not relevant and to the extent there is minimal relevant, its probative value is substantially outweighed by its prejudicial effect.

It is a fundamental tenet of the American legal system that an accused may only be convicted based upon proof that he committed the crime with which he is charged and not based upon poor character. *State v. Wood*, 126 Idaho 241, 244 (Ct. App. 1994). Evidence of misconduct not charged in an underlying offense may have an unjust influence on the jurors and may lead them to determine guilt based upon either: (1) a presumption that if the defendant did it before, he must have done it this time; or (2) an opinion that it does not really matter whether the defendant committed the charged crime because he deserves to be punished anyhow for other bad acts. *Id.* at 244-45. Therefore, I.R.E. 404¹ precludes the use of character evidence or other misconduct evidence to imply that the defendant must have acted consistently with those past acts or traits. *Id.*

The *Idaho Rules of Evidence* provide that, generally speaking, evidence of "other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that the person acted in conformity therewith." I.R.E. 404(b). However, such evidence may be admitted

¹ I.R.E. 404 provides in pertinent part:

(a) Character evidence generally. Evidence of a person's character or a trait of character is not admissible for the purpose of proving that the person acted in conformity therewith on a particular occasion, except:

(1) Character of accused. Evidence of a pertinent trait of the accused's character offered by an accused, or by the prosecution to rebut the same;

...

(b) Other crimes, wrongs, or acts. Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that the person acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, provided that the prosecution in a criminal case shall file and serve notice reasonably in advance of trial, or during trial if the court excuses pretrial notice on good cause shown, of the general nature of any such evidence it intends to introduce at trial.

“for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident” *Id.*

Under I.R.E. 404(b), there is a two-tiered analysis for determining the admissibility of “prior bad act” evidence. *State v. Grist*, 147 Idaho 49, 52 (2009). The court must first “determine whether there is sufficient evidence to establish the other crime or wrong as fact” and “whether the fact of another crime or wrong, if established, would be relevant . . . to a material and disputed issue concerning the crime charged, *other than propensity*.” *Id.* If the evidence is insufficient to establish the other crime or wrong as fact, or if the other crime or wrong, even if proven, is not relevant to an issue other than character or propensity, it is inadmissible and the inquiry ends. *See id.* However, if the evidence is sufficient to prove the other crime or wrong, and that crime or wrong is relevant to some valid issue, the court must then “engage in a balancing under I.R.E. 403 and determine whether the danger of unfair prejudice substantially outweighs the probative value of the evidence.” *Id.*

1. The State’s Proposed Evidence Is Not Relevant To A Material And Disputed Issue In The Case²

The audio of Officer Miller’s earlier arrest of Mr. Kralovec for public intoxication and resisting and obstructing is not relevant to any material and disputed issue in the case. Initially, it should be noted that the State has already taken a stance as to the relationship between the underlying misdemeanors occurring earlier in the night and the felony offense that is the subject of this case. Earlier in this case, Mr. Kralovec filed a motion to consolidate the instant felony offense with CR-MD-2014-2147. The State objected, arguing that “[t]hese criminal actions, although possibly occurring on the same day, did not originate out of the ‘same act or transaction’ or two or more ‘acts or transactions connected together’” (State’s Objection to Motion to Consolidate, p.1.) The State continued, “the charged conduct is *entirely distinct*” and the “two cases involve separate criminal actions occurring at different locations.” (State’s Objection to Motion to Consolidate, p.1 (emphasis added).) Finally, the State concluded, “Case CR-FE-2014-1842 involves felonious conduct occurring inside the Ada County Jail after the

² For purposes of this Objection, Mr. Kralovec does acknowledge that there is likely sufficient evidence to establish the existence of a wrong given the existence of Officer Miller’s audio recording.

defendant had been arrested for *unrelated conduct*” and “Case CR-MD-2014-2147 involves misdemeanor criminal allegations *unrelated to the defendant’s conduct in the jail.*” (State’s Objection to Motion to Consolidate, p.2 (emphasis added).) Thus, as the State has conceded, Mr. Kralovec’s conduct prior to the felony battery on certain personnel charge is “entirely distinct” and “unrelated to his conduct in the jail.” As such, the State has acknowledged that the proposed evidence is irrelevant and unrelated to the instant charge. It would violate the equitable doctrine of judicial estoppel for the State to take an inconsistent position in this proceeding. *Riley v. W.R. Holdings, LLC*, 143 Idaho 116 (2006) (“The doctrine of judicial estoppel prohibits ‘a party from assuming a position in one proceeding and then taking an inconsistent position in a subsequent proceeding.’”).

Even beyond the State’s own concession, the State is unable to establish the proposed evidence’s relevance “to a material and disputed issue concerning the crime charged, *other than propensity.*” *Grist*, 147 Idaho at 52 (emphasis added). The State first argues that it “would introduce this evidence to demonstrate the defendant’s knowledge that he was in contact with law enforcement officers who were in the performance of their duty. . . .” (State’s 404(b) Notice, p.2.) To be frank, this is not a disputed issue in this case. Mr. Kralovec was handcuffed, arrested, and taken to the Ada County Jail where all staff was dressed in their full law enforcement garb. This is not a case where we are dealing an off duty, plain clothed officer or even an undercover detective, where the charged individual’s knowledge of the status of the officer is in question. There is no dispute that Mr. Kralovec “knew he was in contact with law enforcement officers.”

Next, the State attempts to cloak the propensity evidence as necessary “to demonstrate [Mr. Kralovec’s] intent to use force or violence on” Deputy Michaelson. As the State has previously acknowledged, the two incidents were “entirely distinct” and conduct the led to the misdemeanor offenses is “unrelated to the [Mr. Kralovec’s] conduct in the jail.” Unfortunately for the State, “frequent and excessive use of vulgarity and calling the officer names, threats to spit in the patrol care followed up by spitting and threats to cause damage to the officer’s patrol car and the defendant’s defiant response” long prior to the instant offense in no way “demonstrate[s] [Mr. Kralovec’s] intent to use force on violence on” Deputy Michaelson. While

his actions and vocalizations certainly demonstrate Mr. Kralovec's intoxication at the time of his contact with Deputy Miller, it has no relationship to any intent of Mr. Kralovec hours later.

Moreover, even when propensity evidence is relevant to some material and disputed issue in a case, it still must survive the balancing test set forth in I.R.E. 403. Such evidence is inadmissible if the probative value is substantially outweighed by the prejudicial effect of presenting that evidence. I.R.E. 403. To have probative value, the evidence would have "any tendency to make the existence of any fact *that is of consequence to the determination of the action* more probable or less probable than it would be without the evidence." *State v. Byington*, 132 Idaho 597, 605 (Ct. App. 1998) (quoting I.R.E. 401) (emphasis added); *see also Joy*, 155 Idaho 1, 8 (2013) (holding that propensity evidence needs to be relevant *to a material and disputed issue*). The Idaho Rules of Evidence, particularly Rules 404 and 609, implicitly recognize that evidence of prior bad acts is inherently prejudicial. *State v. Bingham*, 124 Idaho 698, 701-02 (1993). In *Joy*, the Idaho Supreme Court held that:

While the events are similar and occurred close together in time, they do not constitute 'a common scheme or plan embracing the commission of two or more crimes *so related to each other* that proof of one tends to establish the other,' as required by [*State v. Grist*, 147 Idaho 49 (2008)]. Rather they are merely suggestive of Preston's predisposition for domestic violence, precisely the kind of character evidence barred by Rule 404.

Joy, 155 Idaho at 11 (emphasis from original).

Accordingly, based on the foregoing, the State's proposed evidence is not relevant to a material and disputed issue in the case.

2. Assuming *Arguendo*, Even If The State's Proposed Evidence Has Some Marginal Relevance To The Charged Offense, Probative Value Of The Evidence Is Substantially Outweighed By The Danger Of Unfair Prejudice

As noted, if "prior bad act" evidence is not relevant to an issue other than the defendant's bad character or propensity to commit crime, it is inadmissible and the inquiry ends there. *See Grist*, 147 Idaho at 52. However, if such evidence is found to be relevant to a proper (non-propensity) consideration, the next step in the analysis is to determine whether the probative value of that "prior bad act" evidence is substantially outweighed by its prejudicial effect. *Id.* The State, in its I.R.E. 404(b) Notice properly encapsulates the prejudicial effect of the

propensity evidence contained in the audio, writing that Deputy Miller's audio contained "frequent and excessive use of vulgarity and calling the officer names, threats to spit in the patrol car followed up by spitting and threats to cause damage to the officer's patrol car and the defendant's defiant response." In fact, Mr. Kralovec says "fuck" or "fuck you" 40 times, "shit" 5 times, "ass or asshole" 4 times, and "son of a bitch" 4 times throughout the course of the audio. Mr. Kralovec is obviously intoxicated, obnoxious, loquacious, and extremely abrasive. The audio speaks for itself and its introduction would likely lead a number of jurors to reach a decision in the case for conduct "unrelated to the defendant's conduct in the jail." (State's Objection to Motion to Consolidate, p.2.)

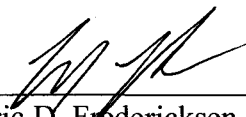
Accordingly, the probative value of the audio, to the extent there is any, is substantially outweighed by the danger of unfair prejudice.

D. Conclusion

Mr. Kralovec respectfully requests that this Court foreclose the State from allowing the jury to listen to the Officer Miller's audio of his arrest for public intoxication and resisting and obstructing.

DATED this 30th day of July, 2014.

BRADY LAW, CHARTERED



By: Eric D. Fredericksen
Attorney for Defendant
Thomas Kralovec

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30th day of July, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Jill Longhurst
Deputy Prosecuting Attorney
Ada County Prosecuting Attorney's Office
200 W. Front Street, Room 3191
Boise, ID 83702
(Attorneys for Plaintiff)

<input checked="" type="checkbox"/>	U.S. Mail, Postage Prepaid
<input type="checkbox"/>	Express Mail
<input type="checkbox"/>	Hand Delivery
<input type="checkbox"/>	Facsimile Transmission
<input type="checkbox"/>	Federal Express
<input type="checkbox"/>	Electronic Mail



Eric D. Fredericksen

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NO. _____
A.M. _____ P.M. _____

CA

ADA COUNTY PUBLIC DEFENDER
Attorneys at Law

STEVEN A. BOTIMER, ISB #3017
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

AUG - 1 2014

CHRISTOPHER D. RICH, Clerk
By SHERRI BOUCHER
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,
Plaintiff,
vs.
THOMAS JOHN KRALOVEC,
Defendant.

Case No. CR-FE-2014-0001842
MOTION TO QUASH SUBPOENA

COMES NOW, the office of the Ada County Public Defender, an interested party in the above-entitled matter, hereby moves this Honorable Court for an order quashing subpoena #1497774. Said subpoena was issued by Jill Longhurst, counsel for the State, and subsequently mailed to Heidi K. Koonce, previous counsel for Defendant and Deputy Public Defender.

The Party's motion is made under IDAHO CODE § 9-203(2), which provides that "An attorney cannot, without the consent of his client, be examined as to any communication made by the client to him, or his advice given thereon in the course of professional employment. The word client used herein shall be deemed to include a person, a corporation or an association."

This motion is further based upon rule 1.6(a) of the Idaho Rules of Professional Conduct, which states that "A lawyer shall not reveal information relating to

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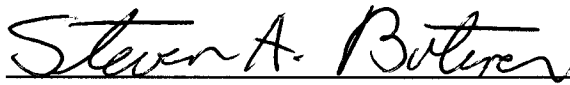
representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b)."¹

Additionally, this motion is based upon the written assertion of privilege filed on behalf of Mr. Thomas Kralovec, which has been filed with this Court, and is scheduled for hearing on August 8, 2014, at 11:00 a.m.²

This motion is also based upon the documents and records on file in this matter and upon such evidence and argument as shall be produced at an oral argument upon this motion. Undersigned counsel requests this matter be set for oral argument before this Honorable Court.

DATED, this 1st day of August 2014.

ALAN E. TRIMMING
Ada County Public Defender


Steven A. Botimer
Deputy Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 1st day of August 2014, I mailed (served) a true and correct copy of the within instrument to:

Jill Longhurst
Ada County Prosecutor's Office
Interdepartmental Mail

Eric D. Frederickesn
Counsel for Defendant
Electronic Mail


Jacob R. Precht

¹ For the convenience of the Court and counsel, a copy of Rule 1.6 is attached hereto and incorporated by reference herein.

² For the convenience of the Court and counsel, a copy of the motion is attached hereto and incorporated by reference herein.

writing. Contingent fee agreements must be in a writing signed by the client and must otherwise comply with paragraph (c) of this Rule. Joint responsibility for the representation entails financial and ethical responsibility for the representation as if the lawyers were associated in a partnership. A lawyer should only refer a matter to a lawyer whom the referring lawyer reasonably believes is competent to handle the matter. See Rule 1.1.

[8] Paragraph (e) does not prohibit or regulate division of fees to be received in the future for work done when lawyers were previously associated in a law firm.

Disputes over Fees

[9] If a procedure has been established for resolution of fee disputes, such as an arbitration or mediation procedure established by the bar, the lawyer must comply with the procedure when it is mandatory, and, even when it is voluntary, the lawyer should conscientiously consider submitting to it. Law may prescribe a procedure for determining a lawyer's fee, for example, in representation of an executor or administrator, a class or a person entitled to a reasonable fee as part of the measure of damages. The lawyer entitled to such a fee and a lawyer representing another party concerned with the fee should comply with the prescribed procedure.

Reasonable Request for Accounting

[10] Rule 1.5(f) requires a lawyer, upon reasonable request from the client, to provide an accounting to the client for fees and costs claimed or previously collected. The duty is limited to reasonable requests, to prevent the client from unduly burdening the lawyer with duplicative requests or from demanding detail beyond that reasonably calculated to inform the client about the handling and disposition of money. The lawyer is not permitted to charge a fee for the time spent in preparing such a billing statement, although reasonable copying charges may still be appropriate.

***RULE 1.6: CONFIDENTIALITY OF INFORMATION**

- (a) A lawyer shall not reveal information relating to representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).
- (b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:
 - (1) to prevent the client from committing a crime, including disclosure of the intention to commit a crime;
 - (2) to prevent reasonably certain death or substantial bodily harm;
 - (3) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is

reasonably certain to result or has resulted from the client's commission of a crime in furtherance of which the client has used the lawyer's services;

- (4) to secure legal advice about the lawyer's compliance with these Rules;
 - (5) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of a client;
 - (6) to comply with other law or a court order; or
 - (7) to detect and resolve conflicts of interest arising from the lawyer's change of employment or from changes in the composition or ownership of a firm, but only if the revealed information would not compromise the attorney-client privilege or otherwise prejudice the client.
- (c) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.

Commentary

[1] This Rule governs the disclosure by a lawyer of information relating to the representation of a client during the lawyer's representation of the client. See Rule 1.18 for the lawyer's duties with respect to information provided to the lawyer by a prospective client, Rule 1.9(c)(2) for the lawyer's duty not to reveal information relating to the lawyer's prior representation of a former client and Rules 1.8(b) and 1.9(c)(1) for the lawyer's duties with respect to the use of such information to the disadvantage of clients and former clients.

[2] A fundamental principle in the client-lawyer relationship is that, in the absence of the client's informed consent, the lawyer must not reveal information relating to the representation. See Rule 1.0(e) for the definition of informed consent. This contributes to the trust that is the hallmark of the client-lawyer relationship. The client is thereby encouraged to seek legal assistance and to communicate fully and frankly with the lawyer even as to embarrassing or legally damaging subject matter. The lawyer needs this information to represent the client effectively and, if necessary, to advise the client to refrain from wrongful conduct. Almost without exception, clients come to lawyers in order to determine their rights and what is, in the complex of laws and regulations, deemed to be legal and correct. Based upon experience, lawyers know that almost all clients follow the advice given, and the law is upheld.

[3] The principle of client-lawyer confidentiality is given effect by related bodies of law: the attorney-client privilege, the work

product doctrine and the rule of confidentiality established in professional ethics. The attorney-client privilege and work-product doctrine apply in judicial and other proceedings in which a lawyer may be called as a witness or otherwise required to produce evidence concerning a client. The rule of client-lawyer confidentiality applies in situations other than those where evidence is sought from the lawyer through compulsion of law. The confidentiality rule, for example, applies not only to matters communicated in confidence by the client but also to all information relating to the representation, whatever its source. A lawyer may not disclose such information except as authorized or required by the Rules of Professional Conduct or other law. See also Scope.

[4] Paragraph (a) prohibits a lawyer from revealing information relating to the representation of a client. This prohibition also applies to disclosures by a lawyer that do not in themselves reveal protected information but could reasonably lead to the discovery of such information by a third person. A lawyer's use of a hypothetical to discuss issues relating to the representation is permissible so long as there is no reasonable likelihood that the listener will be able to ascertain the identity of the client or the situation involved.

Authorized Disclosure

[5] Except to the extent that the client's instructions or special circumstances limit that authority, a lawyer is impliedly authorized to make disclosures about a client when appropriate in carrying out the representation. In some situations, for example, a lawyer may be impliedly authorized to admit a fact that cannot properly be disputed or to make a disclosure that facilitates a satisfactory conclusion to a matter. Lawyers in a firm may, in the course of the firm's practice, disclose to each other information relating to a client of the firm, unless the client has instructed that particular information be confined to specified lawyers.

Disclosure Adverse to Client

[6] Although the public interest is usually best served by a strict rule requiring lawyers to preserve the confidentiality of information relating to the representation of their clients, the confidentiality rule is subject to limited exceptions. Paragraph (b)(1) recognizes an exception for a client's stated intention to commit a crime. Idaho's rule differs from the ABA Model Rule in that a lawyer may reveal the client's stated intention to commit any crime, not just those involving potential death or potential bodily injury. It is also important to note that this is a permissive rule, in that the lawyer may reveal such confidences but is not required to do so.

[7] Paragraph (b)(2) recognizes the overriding value of life and physical integrity and permits disclosure reasonably necessary to prevent reasonably certain death or substantial bodily harm. Such harm is reasonably certain to occur if it will be suffered imminently or if there is a present and substantial threat that a person will suffer

such harm at a later date if the lawyer fails to take action necessary to eliminate the threat. Thus, a lawyer who knows that a client has accidentally discharged toxic waste into a town's water supply may reveal this information to the authorities if there is a present and substantial risk that a person who drinks the water will contract a life-threatening or debilitating disease and the lawyer's disclosure is necessary to eliminate the threat or reduce the number of victims.

[8] Paragraph (b)(3) addresses the situation in which the lawyer does not learn of the client's crime until after it has been consummated. Although the client no longer has the option of preventing disclosure by refraining from the wrongful conduct, there will be situations in which the loss suffered by the affected person can be prevented, rectified or mitigated. In such situations, the lawyer may disclose information relating to the representation to the extent necessary to enable the affected persons to prevent or mitigate reasonably certain losses or to attempt to recoup their losses. Paragraph (b)(3) does not apply when a person who has committed a crime thereafter employs a lawyer for representation concerning that offense.

[9] A lawyer's confidentiality obligations do not preclude a lawyer from securing confidential legal advice about the lawyer's personal responsibility to comply with these Rules. In most situations, disclosing information to secure such advice will be impliedly authorized for the lawyer to carry out the representation. Even when the disclosure is not impliedly authorized, paragraph (b)(4) permits such disclosure because of the importance of a lawyer's compliance with the Rules of Professional Conduct.

[10] Where a legal claim or disciplinary charge alleges complicity of the lawyer in a client's conduct or other misconduct of the lawyer involving representation of the client, the lawyer may respond to the extent the lawyer reasonably believes necessary to establish a defense. The same is true with respect to a claim involving the conduct or representation of a former client. Such a charge can arise in a civil, criminal, disciplinary or other proceeding and can be based on a wrong allegedly committed by the lawyer against the client or on a wrong alleged by a third person, for example, a person claiming to have been defrauded by the lawyer and client acting together. The lawyer's right to respond arises when an assertion of such complicity has been made. Paragraph (b)(5) does not require the lawyer to await the commencement of an action or proceeding that charges such complicity, so that the defense may be established by responding directly to a third party who has made such an assertion. The right to defend also applies, of course, where a proceeding has been commenced.

[11] A lawyer entitled to a fee is permitted by paragraph (b)(5) to prove the services rendered in an action to collect it. This aspect of the rule expresses the principle that the beneficiary of a fiduciary relationship may not exploit it to the detriment of the fiduciary.

[12] Other law may require that a lawyer disclose information about a client. Whether such a law supersedes Rule 1.6 is a question of law beyond the scope of these Rules. When disclosure of information relating to the representation appears to be required by other law, the lawyer must discuss the matter with the client to the extent required by Rule 1.4. If, however, the other law supersedes this Rule and requires disclosure, paragraph (b)(6) permits the lawyer to make such disclosures as are necessary to comply with the law.

Detection of Conflicts of Interest

[13] Paragraph (b)(7) recognizes that lawyers in different firms may need to disclose limited information to each other to detect and resolve conflicts of interest, such as when a lawyer is considering an association with another firm, two or more firms are considering a merger, or a lawyer is considering the purchase of a law practice. See Rule 1.17, Comment [7]. Under these circumstances, lawyers and law firms are permitted to disclose limited information, but only once substantive discussions regarding the new relationship have occurred. Any such disclosure should ordinarily include no more than the identity of the persons and entities involved in a matter, a brief summary of the general issues involved, and information about whether the matter has terminated. Even this limited information, however, should be disclosed only to the extent reasonably necessary to detect and resolve conflicts of interest that might arise from the possible new relationship. Moreover, the disclosure of any information is prohibited if it would compromise the attorney-client privilege or otherwise prejudice the client (e.g., the fact that a corporate client is seeking advice on a corporate takeover that has not been publicly announced; that a person has consulted a lawyer about the possibility of divorce before the person's intentions are known to the person's spouse; or that a person has consulted a lawyer about a criminal investigation that has not led to a public charge). Under those circumstances, paragraph (a) prohibits disclosure unless the client or former client gives informed consent. A lawyer's fiduciary duty to the lawyer's firm may also govern a lawyer's conduct when exploring an association with another firm and is beyond the scope of these Rules.

[14] Any information disclosed pursuant to paragraph (b)(7) may be used or further disclosed only to the extent necessary to detect and resolve conflicts of interest. Paragraph (b)(7) does not restrict the use of information acquired by means independent of any disclosure pursuant to paragraph (b)(7). Paragraph (b)(7) also does not affect the disclosure of information within a law firm when the disclosure is otherwise authorized, see, Comment [5], such as when a lawyer in a firm discloses information to another lawyer in the same firm to detect and resolve conflicts of interest that could arise in connection with undertaking a new representation.

[15] A lawyer may be ordered to reveal information relating to the representation of a client by a court or by another tribunal or

governmental entity claiming authority pursuant to other law to compel the disclosure. Absent informed consent of the client to do otherwise, the lawyer should assert on behalf of the client all nonfrivolous claims that the order is not authorized by other law or that the information sought is protected against disclosure by the attorney-client privilege or other applicable law. In the event of an adverse ruling, the lawyer must consult with the client about the possibility of appeal to the extent required by Rule 1.4. Unless review is sought, however, paragraph (b)(6) permits the lawyer to comply with the court's order.

[16] Paragraph (b) permits disclosure only to the extent the lawyer reasonably believes the disclosure is necessary to accomplish one of the purposes specified. Where practicable, the lawyer should first seek to persuade the client to take suitable action to obviate the need for disclosure. In any case, a disclosure adverse to the client's interest should be no greater than the lawyer reasonably believes necessary to accomplish the purpose. If the disclosure will be made in connection with a judicial proceeding, the disclosure should be made in a manner that limits access to the information to the tribunal or other persons having a need to know it and appropriate protective orders or other arrangements should be sought by the lawyer to the fullest extent practicable.

[17] Paragraph (b) permits but does not require the disclosure of information relating to a client's representation to accomplish the purposes specified in paragraphs (b)(1) through (b)(6). In exercising the discretion conferred by this Rule, the lawyer may consider such factors as the nature of the lawyer's relationship with the client and with those who might be injured by the client, the lawyer's own involvement in the transaction and factors that may extenuate the conduct in question. A lawyer's decision not to disclose as permitted by paragraph (b) does not violate this Rule. Disclosure may be required, however, by other Rules. Some Rules require disclosure only if such disclosure would be permitted by paragraph (b). See Rules 1.2(d), 4.1(b), 8.1 and 8.3. Rule 3.3, on the other hand, requires disclosure in some circumstances regardless of whether such disclosure is permitted by this Rule. See Rule 3.3(c).

Withdrawal

[18] If the lawyer's services will be used by the client in materially furthering a course of criminal or fraudulent conduct, the lawyer must withdraw, as stated in Rule 1.16(a)(1). After withdrawal the lawyer is required to refrain from making disclosure of the client's confidences, except as otherwise permitted by Rule 1.6. Neither this Rule nor Rule 1.8(b) nor Rule 1.16(d) prevents the lawyer from giving notice of the fact of withdrawal, and the lawyer may also withdraw or disaffirm any opinion, document, affirmation, or the like.

Acting Competently to Preserve Confidentiality

[19] Paragraph (c) requires a lawyer to act competently to safeguard information relating to the representation of a client against unauthorized access by third parties and against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision. See Rules 1.1, 5.1 and 5.3. The unauthorized access to, or the inadvertent or unauthorized disclosure of, information relating to the representation of a client does not constitute a violation of paragraph (c) if the lawyer has made reasonable efforts to prevent the access or disclosure. Factors to be considered in determining the reasonableness of the lawyer's efforts include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer's ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use). A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to forgo security measures that would otherwise be required by this Rule. Whether a lawyer may be required to take additional steps to safeguard a client's information in order to comply with other law, such as state and federal laws that govern data privacy or that impose notification requirements upon the loss of, or unauthorized access to, electronic information, is beyond the scope of these Rules. For a lawyer's duties when sharing information with nonlawyers outside the lawyer's own firm, see Rule 5.3, Comments [3]-[4].

[20] When transmitting a communication that includes information relating to the representation of a client, the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients. This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions. Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement. A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to the use of a means of communication that would otherwise be prohibited by this Rule. Whether a lawyer may be required to take additional steps in order to comply with other law, such as state and federal laws that govern data privacy, is beyond the scope of these Rules.

Former Client

[21] The duty of confidentiality continues after the client-lawyer relationship has terminated. See Rule 1.9(c)(2). See Rule 1.9(c)(1)

for the prohibition against using such information to the disadvantage of the former client.

(*Rule 1.6 and Commentary amended 3-17-14 effective 7-1-14)

RULE 1.7: CONFLICT OF INTEREST: CURRENT CLIENTS

- (a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:
- (1) the representation of one client will be directly adverse to another client; or
 - (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by the personal interests of the lawyer, including family and domestic relationships.
- (b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:
- (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
 - (2) the representation is not prohibited by law;
 - (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and
 - (4) each affected client gives informed consent, confirmed in writing.

Commentary

General Principles

[1] Loyalty and independent judgment are essential elements in the lawyer's relationship to a client. Concurrent conflicts of interest can arise from the lawyer's responsibilities to another client, a former client or a third person or from the lawyer's own interests. For specific Rules regarding certain concurrent conflicts of interest, see Rule 1.8. For former client conflicts of interest, see Rule 1.9. For conflicts of interest involving prospective clients, see Rule 1.18. For definitions of "informed consent" and "confirmed in writing," see Rule 1.0(e) and (b).

[2] Resolution of a conflict of interest problem under this Rule requires the lawyer to: 1) clearly identify the client or clients; 2) determine whether a conflict of interest exists; 3) decide whether the representation may be undertaken despite the existence of a conflict, i.e., whether the conflict is consentable; and 4) if so, consult with the clients affected under paragraph (a) and obtain their informed consent, confirmed in writing. The clients affected under paragraph (a) include both of the clients referred to in

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant, Thomas Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842

Judge Jason D. Scott

**THOMAS KRALOVEC'S ASSERTION
OF LAWYER-CLIENT PRIVILEGE AND
STATEMENT IN SUPPORT THEREOF**

Thomas Kralovec, by and through his attorneys of record, Brady Law, Chartered, hereby formally asserts his *Idaho Rule of Evidence* 502 lawyer-client privilege.¹ It is undersigned

¹ This issue is addressed separately under Rule 1.6 of the Idaho Rules of Professional Conduct, which provides:

(a) A lawyer shall not reveal information relating to representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

(b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

(1) to prevent the client from committing a crime, including disclosure of the intention to commit a crime;

**THOMAS KRALOVEC'S ASSERTION OF LAWYER-CLIENT PRIVILEGE AND
STATEMENT IN SUPPORT THEREOF - Page 1**

1424.0001

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counsel's understanding that Heidi Koonce, Deputy Ada County Public Defender has been subpoenaed by the Ada County Prosecutor's Office to provide testimony related, in some fashion to her representation and/or interactions with Mr. Kralovec, during the period of time she represented Mr. Kralovec prior to our involvement in the case. Under I.R.E. 502:

"[a] client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client which were made (1) between the client or the client's representative and the client's lawyer, or the lawyer's representative, (2) between the client's lawyer and the lawyer's representative, (3) among clients, their representatives, their lawyers, or their lawyers' representatives, in any combination, concerning a matter of common interest, but not including communications solely among clients or their representatives when no lawyer is a party to the communication, (4) between representatives of the client or between the client and a representative of the client, or (2) among lawyers and their representatives representing the same client.

Id.

Based upon the foregoing, Mr. Kralovec specifically exercises his privilege to prevent the Ada County Public Defender's Office from disclosing any confidential communications during its representation of him.

-
- (2) to prevent reasonably certain death or substantial bodily harm;
 - (3) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime in furtherance of which the client has used the lawyer's services;
 - (4) to secure legal advice about the lawyer's compliance with these Rules;
 - (5) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of a client;
 - (6) to comply with other law or a court order; or
 - (7) to detect and resolve conflicts of interest arising from the lawyer's change of employment or from changes in the composition or ownership of a firm, but only if the revealed information would not compromise the attorney-client privilege or otherwise prejudice the client.

**THOMAS KRALOVEC'S ASSERTION OF LAWYER-CLIENT PRIVILEGE AND
STATEMENT IN SUPPORT THEREOF - Page 2**

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DATED this ____ day of July, 2014.

BRADY LAW, CHARTERED

By: Eric D. Fredericksen
Attorney for Defendant
Thomas Kralovec

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the ____ day of July, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Jill Longhurst	<input checked="" type="checkbox"/>	U.S. Mail, Postage Prepaid
Deputy Prosecuting Attorney	<input type="checkbox"/>	Express Mail
Ada County Prosecuting Attorney's Office	<input type="checkbox"/>	Hand Delivery
200 W. Front Street, Room 3191	<input type="checkbox"/>	Facsimile Transmission
Boise, ID 83702	<input type="checkbox"/>	Federal Express
<i>(Attorneys for Plaintiff)</i>	<input type="checkbox"/>	Electronic Mail

Eric D. Fredericksen

**THOMAS KRALOVEC'S ASSERTION OF LAWYER-CLIENT PRIVILEGE AND
STATEMENT IN SUPPORT THEREOF - Page 3**

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A.M. _____ P.M. _____

AUG 05 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Jill Longhurst
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Id. 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0001842
)	
vs.)	
	)	NOTICE OF HEARING
THOMAS JOHN KRALOVEC,)	
)	
Defendant.)	

TO: Eric Fredericksen, defendant's attorney of record, you will please take notice that on the 8th day of August 2014, at the hour of 11:00 a.m. of said day, or as soon thereafter as counsel can be heard, Deputy Prosecuting Attorney Jill Longhurst will move this Honorable Court regarding the State's Motion to Continue in the above-entitled action.

DATED this 8 day of August 2014.

GREG H. BOWER
Ada County Prosecuting Attorney

By: Jill Longhurst
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4 day of August 2014, I caused to be served, a true and correct copy of the foregoing Notice of Hearing upon the individual named below in the manner noted:

Eric Fredericksen
2537 W. State St., Suite 200
Boise, ID 83702

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☒ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney at the fax number:



Legal Assistant

NO. 10 FILED
A.M. P.M.

AUG 05 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

GREG H. BOWER

Ada County Prosecuting Attorney

Jill Longhurst

Deputy Prosecuting Attorney

200 West Front Street, Room 3191

Boise, ID 83702

Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)

Plaintiff,)

vs.)

THOMAS JOHN KRALOVEC,)

Defendant.)

Case No. CR-FE-2014-0001842

**FIRST ADDENDUM TO
DISCOVERY RESPONSE TO
COURT**

COMES NOW, Jill Longhurst, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted a First Addendum to Response to Discovery.

RESPECTFULLY SUBMITTED this 4th day of August 2014.

GREG H. BOWER

Ada County Prosecuting Attorney

By: Jill Longhurst

Deputy Prosecuting Attorney

FIRST ADDENDUM TO DISCOVERY RESPONSE TO COURT (KRALOVEC), Page 1

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NO. 10 FILED
A.M. 10 P.M.

AUG 05 2014

GREG H. BOWER
Ada County Prosecuting Attorney

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

Jill Longhurst
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
THOMAS JOHN KRALOVEC.)
)
Defendant.)
_____)

Case No. CR-FE-2014-0001842

MOTION TO CONTINUE

COMES NOW, Jill Longhurst, Deputy Prosecuting Attorney for Ada County, State of Idaho, and moves this Court to continue the Jury Trial currently set for August 25, 2014, at the hour of 9:00 o'clock, to a suitable time for Court and Counsel for the following reason.

Due to ongoing discovery matters that require additional attention, the State requests a continuance so that both parties will have adequate time to prepare for trial.

DATED this 4 day of August 2014.

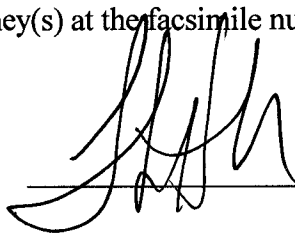
GREG H. BOWER
Ada County Prosecuting Attorney

By: Jill Longhurst
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4 day of August 2014, a true and correct copy of the foregoing Motion to Continue was served to Eric Fredericksen, 2537 W. State St., Suite 200, Boise, ID 83702 in the manner noted below:

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☒ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____



NO. 1143
A.M. FILED P.M.

AUG 06 2014

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

11:00
PTC
8/8
11:00
ADA COUNTY PUBLIC DEFENDER
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN to all parties that the Court will call on for hearing the Motion to Quash Subpoena. Said hearing shall take place on August 8, 2014, at the hour of 11:00 a.m., in the courtroom of the above-entitled court, or as soon thereafter as counsel may be heard.

DATED this 10 day of August 2014.




STEVEN BOTIMER
Deputy Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 6 day of August 2014, I mailed (served) a true and correct copy of the within instrument to:

Jill Longhurst
Ada County Prosecutor's Office
Interdepartmental Mail

Eric Fredericksen
Attorney for Defendant
Faxed to (208) 322-4486


Katie Van Vorhis

NO. _____
AM 8:54 PM

AUG - 8 2014

CHRISTOPHER D. RICH, Clerk
By SHERRY ABBOTT
-DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Jill Longhurst
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	Case No. CR-FE-2014-0001842
)	
Plaintiff,	)	STATE'S MOTION <i>IN LIMINE</i>
	)	REGARDING THE TESTIMONY OF
vs.	)	HEIDI KOONCE AND
	)	MEMORANDUM IN SUPPORT
THOMAS JOHN KRALOVEC,)	
)	
Defendant.)	
_____)	

COMES NOW, Jill Longhurst, Deputy Prosecuting Attorney, and moves the court for a hearing and ruling *in Limine* regarding the admissibility and testimony of Heidi Koonce, an attorney with the Ada County Public Defender's Office. The State has two different letters purported to be written by the defendant which contain incriminating statements relevant to the criminal charge and his intent. During the course of her representation of the defendant, Ms. Koonce represented to both the court and to opposing counsel that her client authored these letters. The State believes that these representations to the court by his attorney acknowledging authorship

and his counsel's repeated representations of the defendant's remorse for his actions are relevant and admissible during jury trial.

FACTS

On February 7, 2014 Defendant Kralovec was charged with committing a felony crime involving violence toward a jail deputy. At his request, a public defender was appointed to represent him. That public defender was Heidi Koonce. Prior to the date of hearing set for the preliminary hearing, Ms. Koonce approached the prosecuting attorney and requested a her agreement on a written stipulation to continue the hearing in order to allow the defendant to complete treatment at the Walker Center. Ms. Koonce represented that the defendant was extremely remorseful for his conduct. Ms. Koonce prepared the stipulation and order to continue the hearing and attached a letter written by the defendant in support of her stipulation/motion. The letter was addressed to Ms. Koonce and to Judge Gardunia. In addition to requesting time to complete treatment and reset the hearing that was then scheduled for February 28, 2014, the letter references the charged criminal conduct which are relevant to proof the crime charged and the defendant's intent to commit the crime. This letter acknowledges that the defendant also wrote a letter to the deputy himself. Judge Gardunia granted the continuance and reset a preliminary hearing for April 2, 2014.

Deputy Michaelson also received a letter from the defendant which references his criminal conduct and apologizes for his criminal actions.

The April 2 hearing was also continued because the deputy had recently had surgery for his injury. On April 29, the defendant waived his preliminary hearing and his counsel asked the court to reconsider the terms of his pre-trial release. During the course of that argument asking the court to modify the pre-trial release conditions, Ms. Koonce told the court that the defendant had done "everything he can to try to negotiate a misdemeanor in this case including letters of apology to the officer."

Similarly, during the course of her representation, Ms. Koonce made multiple representations to the state's attorney, Ms. Alidjani regarding her client's remorse for his actions and specifically represented to the prosecutor that her client had written these letters and offered to show her a copy of the letter to Deputy Michaelson.

The State believes that both letters contain incriminating statements from the defendant regarding his conduct that night and his regret for his actions which are relevant and admissible on the issue of his guilt. The State must necessarily prove that he is the author of these letters.

Defendant Kralovec is now represented in the same matter by private counsel. The case is anticipated to go to trial and the State believes that the defendant's current position is that the battery never occurred and that the defendant did not author those letters.

Any privilege to certain communications is waived when that communication is made public. Accordingly, acknowledgment of the authorship of both letters and the expressions of remorse for having caused physical harm to the deputy which were publicly shared by counsel with the court and prosecuting attorney are not privileged.

Issues:

1. The defendant relinquished any claim regarding attorney client privilege when he drafted and signed letters to the court and the victim of his crime which expressing his remorse for his criminal actions and when his advocate acknowledge his remorse and authorship of those letters to the court and opposing counsel.

ARGUMENT

I. Waiver of Attorney-Client Privilege

Defendant Kralovec has filed a motion/notice claiming that any communications to Ms. Koonce are privileged. Ms. Koonce, through her attorney, has likewise asked the court to quash her subpoena asserting attorney client privilege.

When a defendant asserts a claim that any or all communications are privileged, it is his burden to demonstrate to the court that the privilege applies and that he has not by his actions or decisions waived that privilege. "The burden is on the proponent of the attorney-client privilege to demonstrate its applicability. Specifically, the proponent must establish 'not only that an attorney-client relationship existed, but also that the particular communications at issue are privileged and that the privilege was not waived.'" *United States v. Lentz*, 419 F.Supp.2d 820, 827 (U.S. E.D. Virginia 2005)(*citations omitted*); *United States v. Mejia/Rodriguez*, 655 F.3d 126, 132 (2nd

Cir.2011)(The party asserting the privilege, in this case Rodriguez, bears the burden of establishing its essential elements.).

I.C. § 9-203 recognizes that, as to attorney client privilege, it is the policy of Idaho lawmakers “to encourage confidence and to preserve it inviolate.” Accordingly, this statute prevents attorneys from becoming witnesses without the consent of the client. See also I.R.E. 502 and *State v. Iwakiri*, 106 Idaho 618, 682 P.2d 571 (1984). However, the scope of an attorney-client privileged communication is limited. “Because the attorney client privilege obstructs the truth-finding process, it is construed narrowly.” *Westinghouse Electric Co. v. Republic of the Philippines*, 951 F.2d 1414 (3rd Cir. 1991)(*citations omitted*); See also *United States v. Lentz*, 419 F.Supp.2d 820, 826 (U.S. E.D. Virginia 2005)(“While recognizing the fundamental importance of the privilege, courts have nonetheless been careful not to stretch its application to circumstances beyond its rationale.”) Likewise, the privilege belongs to the client and can only be waived by the client, with the client’s permission or by the client’s actions or disclosure. I.C. §9-203; *State v. Iwakiri*, *Id.*; *United States v. Hatcher*, 323 R.3d 666 (8th Cir. 2003).

Accordingly, when the client or person divulges confidential or privileged communications to third parties, it is well understood that the privilege protecting this communication is waived.

[V]oluntary disclosure to a third party of purportedly privileged communications has long been considered inconsistent with an assertion of the privilege. *United States v. AT & T*, 642 F.2d 1285, 1299 (D.C. Cir. 1980). ... ‘Consequently, it is well-settled that when a client voluntarily discloses privileged communications to a third party, the privilege is waived.’ (*citations omitted*). *Westinghouse Electric Co. supra*, at F.2d 1423-1424. See also I.R.E. 510 (voluntary disclosure of information waives privilege); *Sheet Metal Workers Intern Ass’n v. Sweeney*, 29 F.3d 120, 125 (4th Cir.1994)(“Any disclosure inconsistent with maintaining the confidential nature of the attorney-client relationship waives the attorney-client privilege. Any voluntary disclosure by the client to a third party waives the privilege not only as to the specific communication disclosed, but often as to all other communications relating to the same subject matter.”); *U.S. v. Jones*, 696 F.2d 1069, 1072-73 (4th Cir.1982); *In re Grand Jury Proceedings*, 727 F.2d 1352, 1355-56 (4th Cir. 1984)(“It is the essence of the privilege that it is limited to those communications which the client either expressly made confidential or which he could reasonably assume under the circumstances would be understood by the attorney as so intended.”); *American Zurich Insurance Co. v. Montana Thirteenth Judicial District*, --- P.3d ---, 364 Mont. 299, 2012 WL 82196, p. 12, (Mont. 2012); *Montgomery v. Leftwich, Moore & Douglas*, 161 F.R.D. 224, 226(U.S. DC 1995)(noting also: when

an attorney conveys to his client facts acquired from other persons or sources, those are not privileged.).

Moreover, courts have frequently held that by divulging the content of an attorney's advice to others, including detectives and investigators, the privilege is waived. For example, in a 1996 Sixth Circuit case, the U.S. Court of Appeals upheld an order compelling an attorney to testify about her legal advice to a client at a grand jury proceeding. In this case, the owner and president of a business told investigators about their attorney's advice regarding the legality of a marketing plan. The court held that by disclosing this information to investigators, the attorney client privilege had been waived. *In re Grand Jury Proceedings October 12, 1995*, 78 F.3d 251, 253-54 (6th Cir.1996). Similarly, in *United States v. Mendelsohn*, 896 F.2d 1183, (9th Cir.1990) the United States Court of Appeals upheld a trial court's determination that when the defendant had disclosed the advice of his counsel to a detective, albeit falsifying what his attorney told him, the privilege was waived. *Id.* at 1188-89. Accordingly, the attorney was properly called to testify by the State regarding the previously confidential communications to help the government prove the element of intent for the crime charged.

Similarly, the State in the instant case moves this court *in Limine* to issue an order regarding the admissibility statements the defendant made to counsel acknowledging the authorship of the two letters and his statements of remorse for his actions including her representations to the court and opposing counsel as an officer of the court acknowledging authorship of the letters.

CONCLUSION

Defendant Kralovec sought the benefit of a continuance for his felony court proceeding and through his attorney. He also sought to express his purported remorse for the crime to both the victim and the court as part of his effort to obtain a continuance. Then, through his counsel, he continued to try to obtain a resolution which he wanted through the repeated expressions of remorse. These representations were clearly authorized by the defendant as he sought a particular outcome. They are not privileged.

Merely because the defendant now seeks to disavow authorship of the letter or deny the occurrence of the criminal battery does not allow him to claim a privilege that no longer exists. To permit the defendant to claim privilege now, when he benefitted by the continuance he sought and

to disavow his prior position because he wasn't able to obtain the results he sought is to allow him to commit a fraud on the court. He cannot be permitted to seek continuances and represent to the court his remorse in order to gain or promote his position and then later exclude those statements and hide behind a claim of privilege when he has chosen to pursue another position. To do so is to permit a fraud and would be inconsistent with the pursuit of justice.

Accordingly, the State respectfully request that the court issue a pretrial ruling allowing the State to call Ms. Koonce to as a witness regarding the defendant's express representations of remorse for has physical battery of Deputy Michaelson and regarding his authorship of the two letters.

RESPECTFULLY SUBMITTED this 28 day of August 2014.

GREG H. BOWER

Ada County Prosecuting Attorney

Jill Longhurst

Deputy Prosecuting Attorney

CERTIFICATE OF MAILING

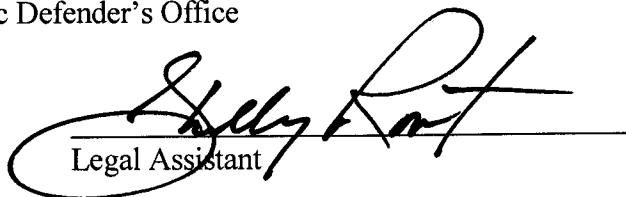
I **HEREBY CERTIFY** that on this 8th day of August 2014, I provided a true and correct copy of the foregoing to the following parties in the manner noted below:

Eric Frederickson
Attorney at Law
2537 W. State St.
Boise, Idaho 83702

X By informing Attorney Eric Frederickson that said copy was available for pickup at the Office of the Ada County Prosecutor.

Steve Botimer
Ada County Deputy Public Defender's Office
200 W. Front St., Room 1107
Boise, Idaho 83702

X By hand delivering to the Ada County Public Defender's Office


Legal Assistant

Time	Speaker	Note
<u>11:34:58 AM</u>		
<u>11:34:58 AM</u>		
<u>11:34:58 AM</u>		
<u>11:35:03 AM</u>		ST v THOMAS KRALOVEC CRFE14-01842 PTC/+ (Fredricksen)CUST
<u>11:35:22 AM</u>		Def. present out of custody.
<u>11:35:29 AM</u>	Counsel	Longhurst/Fredricksen
<u>11:36:12 AM</u>	Longhurst	Discovery and mtn to continue - take up first
<u>11:36:40 AM</u>		Motion to compel
<u>11:36:51 AM</u>	Fredricksen	Argues.
<u>11:37:30 AM</u>	Longhurst	Responds.
<u>11:46:03 AM</u>	Fredricksen	Responds.
<u>11:47:11 AM</u>	Judge Scott	Let's address Mtn to Continue
<u>11:47:26 AM</u>		Motion to continue
<u>11:47:28 AM</u>	Longhurst	Argues motion.
<u>11:48:31 AM</u>	Fredricksen	Will leave in court's discretion. Def. has job offer up north and would like to get this resolved. Stand on speedy trial.
<u>11:49:24 AM</u>	JUDGE SCOTT	Will grant motion to continue. JT 10/6/14, 9/4/14 @ 1pm for PT motions; as to Mtn to compel - will take under advisement.
<u>11:58:02 AM</u>	w	Lojek
<u>11:58:05 AM</u>		End of Case
<u>11:58:05 AM</u>		
<u>11:58:06 AM</u>		
<u>11:58:06 AM</u>		

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

FILED	8/8/14	AT	11:51 A.M.
CHRISTOPHER D. RICH CLERK OF THE DISTRICT COURT			
BY	[Signature]		Deputy Clerk

THE STATE OF IDAHO,

Plaintiff,

vs.

Thomas Kralovec,

Defendant.

Case No. CR- FE-14-1842

Amended
**ORDER GOVERNING FURTHER
CRIMINAL PROCEEDINGS AND
NOTICE OF TRIAL SETTING**

IT IS HEREBY ORDERED as follows:

- (1) Compliance date for discovery is set on or before Sept. 4, 20 14.
- (2) Pretrial conference will be held on Sept. 4, 20 14 at 1:00 P.M. wherein defendant(s) must be personally present in court.
- (3) Jury trial will be held on Oct. 6, 20 14 at 9:00 a.m. and shall be scheduled for 3 days. The order of the jury panel will be drawn by lot the afternoon before the day of trial in chambers. Counsel may be present for the drawing of the names.
- (4) Notice is hereby given, pursuant to Rule 25(a)(6), I.C.R. that an alternate judge may be assigned to preside over the trial of this case. The following is a list of potential alternate judges:

Hon. G.D. Carey	Hon. W.H. Woodland	Hon. Dennis Goff	Hon. Ronald Wilper
Hon. Daniel C. Hurlbutt, Jr.	Hon. James Judd	Hon. Duff McKee	Hon. Renee Hoff
Hon. Michael McLaughlin	Hon. Gerald Schroeder	Hon. Kathryn Sticklen	
Hon. Darla Williamson	Hon. Gregory M. Culet	Hon. James Morfitt	

ALL SITTING FOURTH DISTRICT JUDGES

- (5) **Defendant shall file all pretrial motions governed by Rule 12 of the Idaho Criminal Rules no later than fourteen (14) days after the compliance date set for discovery or otherwise show good cause, upon formal motion, why such time limits should be extended.** All such motions must be brought on for hearing within fourteen (14) days after filing or forty-eight (48) hours before trial, whichever is earlier. All motions *in limine* shall be in writing and filed no later than five (5) days prior to the pretrial conference. **All Motions to Suppress Evidence must be accompanied by a brief setting forth the factual basis and legal basis for the suppression of evidence.**

IT IS SO ORDERED this 8 day of August 20 14.

[Signature]
Defendant's Signature

cc: Hand delivered to Defendant and Counsel

[Signature]
Jason D. Scott
DISTRICT JUDGE

NO. _____
AM _____ P.M. 3:45

AUG 20 2014

CHRISTOPHER D. RICH, Clerk
By: JERRY ABBOTT
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CRFE-2014-0001842

ORDER DENYING DEFENDANT'S
MOTION TO COMPEL DISCOVERY

Defendant Thomas Kralovec is charged with battery on a law-enforcement officer in violation of I.C. §§ 18-915(3) and 18-903(a). Specifically, Kralovec is accused of kicking Ada County Deputy Michaelson in the left shoulder while Deputy Michaelson was performing his duties at the Ada County Jail, where Kralovec was being held on other charges.

At issue is the Specific Discovery Request filed by Kralovec on June 9, 2014, as well as the motion he filed on July 15, 2014, to compel the State to comply with it. Kralovec wants the State to produce medical records regarding Deputy Michaelson's left shoulder. His request seeks medical records regarding care sought both after the incident and as long as 10 years beforehand. The State has produced medical records regarding care sought by Deputy Michaelson after the incident but is unwilling to produce medical records that predate the incident.

Kralovec's motion to compel the State to produce pre-incident medical records was argued and taken under advisement on August 8, 2014. During the hearing, the State argued that Deputy

Michaelson's medical records are not in its possession or control, so it has no obligation to produce them. Kravolec's response was to characterize Deputy Michaelson as a "state actor," presumably given his status as a law-enforcement officer. He presented no authority, however, for treating law-enforcement officers, by virtue of having that status, as having ceded to the State some sort of control over their medical records.

The Court finds no basis to hold that Deputy Michaelson's medical records are in the State's possession or control. Accordingly, the State is not obligated to produce them, even assuming the State would be obligated to do so under *Brady v. Maryland*, 373 U.S. 83 (1963), if they were in its possession or control. See *United States v. Hach*, 162 F.3d 937, 947 (7th Cir. 1998) (holding that the government was not obligated to produce the medical records of a witness because those records were not in its possession or control); see also *State v. Babb*, 125 Idaho 934, 877 P.2d 905 (1994) ("We do not read I.C.R. 16(b)(8) [subsequently renumbered as I.C.R. 16(b)(9)] to authorize the trial court to order the prosecuting attorney to allow an inspection of real property in the possession or control of someone other than the prosecution when that person has not been brought before the court."). For that reason, Kralovec's motion to compel must be denied.

The absence of a production obligation on the State's part does not necessarily mean, however, that Kravolec may not discover the medical records at issue.

The State need not prove an injury to Deputy Michaelson to prove the battery charge against Kralovec, but proving an injury is a permissible way of proving the charge. See I.C. § 18-903. The Court inquired during the hearing whether the State intended to offer evidence of injury or instead would be satisfied with offering evidence of unlawful contact, without addressing whether an injury resulted. The State expressed the intention to offer evidence of injury. By

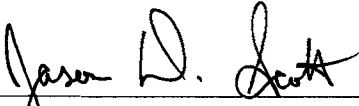
doing so, the State would place at issue whether the incident caused the alleged injury. To the extent the medical records at issue reveal a preexisting injury to Deputy Michaelson's left shoulder, they might suggest the incident did not cause the injury, making them at least potentially exculpatory or potential impeachment material.

This order therefore does not foreclose Kralovec from seeking the medical records at issue by other means.

Accordingly,

IT IS ORDERED that Kralovec's motion to compel is denied.

Dated this 19th day of August 2014.



Jason D. Scott
DISTRICT JUDGE

CERTIFICATE OF MAILING

I hereby certify that on this 20th day of August 2014, I mailed (served) a true and correct copy of the within instrument to:

Jill Longhurst
Deputy Ada County Prosecutor
Ada County Courthouse

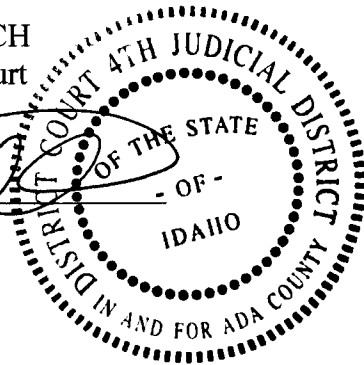
☐ U.S. Mail, Postage Prepaid
☐ Interdepartmental Mail
☒ Electronic Mail
☐ Facsimile

Eric D. Fredericksen
BRADY LAW CHARTERED
2537 W State St, Ste 200
Boise, ID 83702
ericf@bradylawoffice.com

☐ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☒ Electronic Mail
☐ Facsimile

CHRISTOPHER D. RICH
Clerk of the District Court

By: Sha [Signature]
Deputy Court Clerk



Time	Speaker	Note
<u>12:15:06 PM</u>		
<u>12:15:06 PM</u>		
<u>12:15:06 PM</u>		
<u>1:37:14 PM</u>		CRFE14.01842 THOMAS KRALOVEC PRE TRIAL MOTIONS
<u>1:37:49 PM</u>		Present: Counsel: Jill Longhurst/Eric Fredricksen/Al Trimming
<u>1:38:24 PM</u>		State's Subpeona
<u>1:39:10 PM</u>	Longhurst	Argues motion.
<u>1:46:10 PM</u>	Fredricksen	Responds.
<u>1:47:53 PM</u>	Trimming	Responds.
<u>1:58:59 PM</u>	Longhurst	Responds.
<u>2:04:18 PM</u>	Trimming	Responds.
<u>2:04:39 PM</u>	Fredricksen	Responds.
<u>2:05:04 PM</u>	Judge Scott	Will take this issue under advisement.
<u>2:07:03 PM</u>		Motion 404b
<u>2:07:11 PM</u>	Longhurst	Argues motion (404b)
<u>2:17:17 PM</u>	Fredricksen	Responds.
<u>2:22:13 PM</u>	Longhurst	Responds.
<u>2:24:31 PM</u>	Judge Scott	Will take this under advisement. Will need to listen to the audion before making a ruling.
<u>2:25:04 PM</u>		Motion in Limine
<u>2:25:15 PM</u>	Fredricksen	Argues motion
<u>2:27:21 PM</u>	Longhurst	Responds.
<u>2:28:49 PM</u>	Fredricksen	Responds.
<u>2:29:50 PM</u>	Judge Scott	Instructs counsel to avoid using word victim. If it does happen, jury to be instructed accordingly. Will grant the motion on those terms.
<u>2:32:04 PM</u>		End of Case
<u>2:32:04 PM</u>		
<u>2:32:04 PM</u>		
<u>2:32:04 PM</u>		

NO. _____ FILED 4:19
A.M. _____
SEP - 9 2014
CHRISTOPHER D. RICH, Clerk
Deputy Sheriff
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CRFE-2014-0001842

ORDER ON MOTIONS *IN LIMINE*

Defendant Thomas Kralovec is charged with battery on a law-enforcement officer in violation of I.C. §§ 18-915(3) and 18-903(a). Specifically, Kralovec is accused of kicking Ada County Deputy Michaelson in the left shoulder while Deputy Michaelson was performing his duties at the Ada County Jail, into which Kralovec was being booked shortly after his arrest by Officer Chad Miller of the Boise Police Department on a charge of public intoxication.

On September 4, 2014, a hearing was held on several pretrial matters, one of which was resolved during the hearing and the rest of which were taken under advisement to facilitate the Court's post-hearing review of audio recordings submitted by the State of Idaho during the hearing. The matter resolved during the hearing is Kralovec's motion *in limine* concerning the use at trial of the term "victim" to describe Deputy Michaelson. For the reasons stated on the record, the Court granted that motion. It need not be discussed further, except that the Court's

resulting order is memorialized at the end of this order. The unresolved matters are discussed below.

A. Admissibility of audio recording of Kralovec's arrest and transport to jail

One unresolved matter is the State's notice of intent under I.R.E. 404(b) to admit into evidence at trial an audio recording of Kralovec's arrest and transport to the Ada County Jail by Officer Miller. I.R.E. 404(b) requires the State to give notice before trial if it intends to offer evidence of uncharged crimes, wrongs, or acts—*i.e.*, “prior bad act” evidence—at trial. During the hearing, the State indicated the notice was filed out of caution rather than necessity; it does not regard the recording as “prior bad act” evidence but was uncertain whether the Court would view it as such. The seeming alternative to viewing the recording as “prior bad act” evidence is viewing it as *res gestae* evidence or, in other words, evidence needed to tell the complete story of the charged crime. In any event, the recording, to which the Court has now listened, includes some threats by Kralovec to engage in physical violence against Officer Miller, as well as numerous comments challenging or refusing to accept that his admitted drunkenness justified arresting him. Kralovec's audio-recorded behavior generally comes off as belligerent. It includes numerous instances of profane language. The Court understands, based on the State's comments during the hearing, that Kralovec's recorded interaction with Officer Miller took place a short time—less than an hour—before Kralovec allegedly battered Deputy Michaelson. That understanding is an important underpinning of the outcome set forth below.

The State contends the recording is relevant to show, among other things, that Kralovec intended to batter Deputy Michaelson. Kralovec argues for its exclusion.¹

Res gestae evidence is “other acts that occur during the commission of or in close temporal proximity to the charged offense which must be described to ‘complete the story of the crime on trial by placing it in the context of nearby and nearly contemporaneous happenings.’” *State v. Blackstead*, 126 Idaho 14, 18, 878 P.2d 188, 192 (Ct. App. 1994) (quoting 1 Kenneth S. Broun et al., *McCormick on Evidence* § 190 at 799 (4th ed. 1992)). It is admissible, despite I.R.E. 404(b)’s general prohibition on “prior bad act” evidence, if “the charged act and the uncharged act are so inseparably connected that the jury cannot be given a rational and complete presentation of the alleged crime without reference to the uncharged misconduct.” *Id.* at 19, 878 P.2d at 193 (holding that the defendant’s use of drugs and provision of drugs to his victim shortly before committing the alleged sex offense was admissible *res gestae* evidence).

¹ Earlier in the course of this case, Kralovec took a position that, if adopted by the Court, almost certainly would have led to the recording’s admission into evidence at trial. He moved to consolidate this case with the separate case in which he was charged with public intoxication, the offense for which Officer Miller arrested him. In response, the State took a position that complicated the recording’s admission into evidence; it opposed consolidation, characterizing Kralovec’s public drunkenness, on one hand, and the incident with Deputy Michaelson, on the other hand, as “entirely distinct” and “unrelated.” (Objection Mot. Consolidate 1-2.) Kralovec withdrew his motion to consolidate, and the cases have proceeded separately. He suggests the State should be judicially estopped, by virtue of its remarks in opposition to that motion, from offering the recording into evidence. The Court disagrees. Those remarks did not stake out a position with respect to the admissibility of the recording. Even if they did, the State did not benefit from them, as Kralovec withdrew his motion to consolidate before the Court could rule on it. Accordingly, the conditions necessary for applying the doctrine of judicial estoppel are not present here. *See, e.g., McCallister v. Dixon*, 154 Idaho 891, 894, 303 P.3d 578, 581 (2013) (holding that judicial estoppel is an equitable doctrine a court can invoke, at its discretion, to prevent a litigant from changing a position after benefiting from it in court).

Here, a belligerent and admittedly drunken Kralovec is heard on the recording to repeatedly threaten his arresting officer with physical violence and to repeatedly challenge the notion that his public drunkenness justifies his arrest. His alleged battery of Deputy Michaelson at the Ada County Jail apparently occurred less than an hour later, as several officers were trying to subdue him, given his alleged refusal to accede to law-enforcement commands while being booked into jail on the public-intoxication charge for which he had been arrested. Thus, the recording is closely connected temporally with the alleged battery, and the behavior it reflects—threats of physical violence and belligerent challenges to the basis for arrest—has a tendency to explain Kralovec’s alleged misbehavior during the booking process. The Court concludes the recording is *res gestae* evidence.

Alternatively, it is admissible under I.R.E. 404(b) even if not *res gestae* evidence. “Prior bad act” evidence “is not admissible to prove the character of the person in order to show that the person acted in conformity therewith.” I.R.E. 404(a). It may, however, be admissible for other purposes, such as to show the person’s intent. I.R.E. 404(b). A person’s prior bad act can be admitted into evidence if (i) the evidence shows it actually occurred, (ii) it is relevant to a material and disputed issue, other than the person’s propensity to commit the charged crime, and (iii) it survives the I.R.E. 403 balancing test. *E.g., State v. Grist*, 147 Idaho 49, 52, 205 P.3d 1185, 1188 (2009). Item (i) is not at issue here; Kralovec does not deny the recording is of him interacting with Officer Miller.

Kralovec disputes that he intended to batter Deputy Michaelson. The State contends the recording is probative of his intent in that regard, given the threats he leveled against Officer Miller before arriving at the Ada County Jail. The State’s argument, in essence, is that the threats leveled against Officer Miller are generalized threats against law-enforcement officers (rather than

personalized threats against Officer Miller) and that they provide a window into Kralovec's state of mind at the time of the alleged battery against Deputy Michaelson, having shortly preceded it. The Court agrees that the recording is relevant to the issue of intent, given the threats against Officer Miller and given Kralovec's belligerent refusal to accept that public drunkenness is grounds for his arrest. Thus, item (ii) of the above test is satisfied.

Item (iii) also is satisfied. The recording is, again, probative of Kralovec's intent. Intent is a key issue in this case; the Court understands Kralovec will defend the case by contending he did not mean to kick Deputy Michaelson. His position in that regard is undermined by evidence showing that, shortly beforehand, he repeatedly threatened his arresting officer with physical violence and repeatedly and belligerently challenged the propriety of his arrest. The recording is undoubtedly prejudicial to Kralovec, given his loutish recorded behavior. But its probative value is not substantially outweighed by the danger of unfair prejudice. Accordingly, the recording survives the I.R.E. 403 balancing test.

For the reasons, the recording will be admitted into evidence at trial, assuming foundation is laid for its admission into evidence and the other trial evidence does not differ materially from the Court's understanding, as set forth in this order, of what it will be.

B. Admissibility of testimony of Kralovec's former public defender

The remaining unresolved matters pertain to the State's trial subpoena to Heidi Koonce, a public defender assigned to represent Kralovec before he retained private counsel.

On February 13, 2014, Koonce filed on Kralovec's behalf a stipulation to reschedule his preliminary hearing. She attached to the stipulation a letter that was apparently authored by Kralovec and was addressed to both her and the assigned magistrate judge. In the letter, Kralovec asks for a delay of his preliminary hearing to facilitate his participation in an inpatient substance

abuse treatment program. In making that request, he admitted he was intoxicated at the time he allegedly battered Deputy Michaelson and stated, "I don't remember the incident and I am sincerely ashamed of my behavior and for the disrespect and treatment I gave to Deputy Michaelson." He also stated in the letter that he had written an apology letter to Deputy Michaelson.

Indeed, Koonce later told the assigned magistrate judge (in open court on April 29, 2014) that Kralovec had written an apology letter to Deputy Michaelson in trying get the charge against him reduced to a misdemeanor.

The State wishes to call Koonce at trial to testify to Kralovec's authorship of both the letter attached to the stipulation and the letter to Deputy Michaelson (the latter of which is not in the record and has not been reviewed by the Court). Kralovec apparently does not intend to concede authorship, and the State so far has been unable to obtain a handwriting expert's conclusion about whether the signatures on the letters match an exemplar provided by Kralovec.

The Ada County Public Defender has filed a motion to quash the State's subpoena to Koonce, and Kralovec has filed a notice of his intention to assert the attorney-client privilege with respect to any testimony the State tries to elicit from her. For its part, the State has moved *in limine* to admit Koonce's testimony, representing during the hearing that the testimony will be limited to seeking confirmation from her that Kralovec authored the two letters at issue.

The letters themselves are not subject to the attorney-client privilege. Both are directed to parties outside the attorney-client relationship and therefore are not "confidential communications" protected by the privilege. *See* I.R.E. 502. The letters' unprivileged status does not mean, however, that any communication that occurred between Kralovec and Koonce regarding the letters and their authorship is unprivileged. Any such communications, if

confidential, are privileged, *see* I.R.E. 502(b), despite the dissemination of the letters. The dissemination of the letters does not constitute a waiver of the attorney-client privilege associated with any such communications, any more than the filing of a brief would constitute a waiver of the attorney-client privilege associated with confidential communications between attorney and client concerning the brief.

The letter that is attached to the stipulation was placed into the public record by Koonce. Her belief in Kralovec's authorship of the letter can be inferred from her having done so. Her apparent belief in that regard is not itself protected by the attorney-client privilege, as the privilege extends only to communications. I.R.E. 502(b); *Compton v. Compton*, 101 Idaho 328, 337-38, 612 P.2d 1175, 1184-85 (1980). Requiring her to testify at trial to confirm or deny that belief would not be unfairly revealing of any privileged communications between herself and Kralovec. The Court therefore will permit the State to call Koonce at trial to testify regarding her belief as to whether Kralovec authored the letter. The Court will not, however, permit questioning regarding confidential communications between Koonce and Kralovec pertaining to the letter.

Similarly, Koonce's belief that Kralovec authored an apology letter to Deputy Michaelson is evidenced by her statement in open court to that effect on April 29, 2014. She can be required to confirm or deny that belief at trial, but not to divulge confidential communications with Kralovec related to the letter.

Kralovec and the Ada County Public Defender have opposed a requirement that Koonce testify at trial based not only on the attorney-client privilege, but also on I.R.E. 410. The substance of the argument is that the letters represent an effort to negotiate a misdemeanor plea, rendering them inadmissible plea negotiations under that rule. The rule renders inadmissible "any statement made in the course of plea discussions with an attorney for the prosecuting authority

which do not result in a plea of guilty.” I.R.E. 410(a)(4). Its protection does not extend to the letter attached to the stipulation, which is not addressed to the prosecutor and therefore is not a statement made in the course of plea discussions with the prosecuting authority. Its protection also does not extend to the apology letter, which the Court understands to have been addressed to Deputy Michaelson, not to the prosecutor. Kralovec’s aim in writing the letters (if he indeed wrote them) may well have been to try to convince the State to offer him a misdemeanor plea deal, but his aim is not controlling. The letters simply are not statements made in the course of plea discussions with the prosecution.

For these reasons, the Ada County Public Defender’s motion to quash the State’s trial subpoena to Koonce must be denied, and the State’s motion *in limine* with respect to her trial testimony (limited as set forth above) must be granted.

Accordingly,

IT IS ORDERED that the State will be permitted to offer into evidence at trial the audio recording of Kralovec’s arrest for public intoxication and transport to the Ada County Jail.

IT IS FURTHER ORDERED that the State’s motion *in limine* with respect to the testimony of Heidi Koonce is granted, and the Ada County Public Defender’s motion to quash the State’s subpoena to Ms. Koonce is denied. As a result, the State will be permitted to call Koonce as a trial witness in an effort to establish her belief that Kralovec authored the two letters at issue, but the State will not be permitted to inquire into confidential communications between Koonce and Kralovec regarding the letters.

IT IS FURTHER ORDERED that Kralovec’s motion *in limine* with respect to use of the term “victim” to describe Deputy Michaelson is granted. The State and its witnesses shall refrain from referring to Deputy Michaelson as the “victim” of the alleged crime. It is the prosecutor’s

responsibility to ensure that the State's witnesses are aware of and abide by this order. Deputy Michaelson may be referenced by name or as the "alleged victim." Should any apparently inadvertent violation of this order occur during trial, the Court's intention is to address the violation by instructing the jury that the term "victim" is used only as a term of reference, that it should not be taken to imply that Kralovec is guilty of the crime with which he is charged, and that it will be up to the jury to determine whether Kralovec committed a crime against Deputy Michaelson.

IT IS SO ORDERED.

Dated this 9th day of September 2014.



Jason D. Scott
DISTRICT JUDGE

CERTIFICATE OF MAILING

I hereby certify that on this 9th day of September 2014, I mailed (served) a true and correct copy of the within instrument to:

Jill Longhurst
Deputy Ada County Prosecutor
Ada County Courthouse

() U.S. Mail, Postage Prepaid
() Interdepartmental Mail
☒ Electronic Mail
() Facsimile

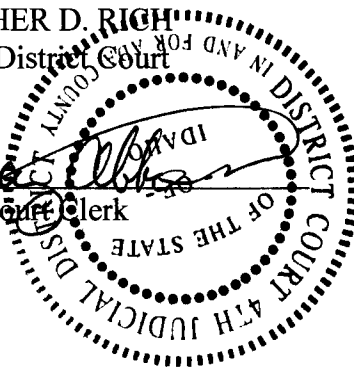
Eric D. Fredericksen
BRADY LAW CHARTERED
2537 W State St, Ste 200
Boise, ID 83702
ericf@bradylawoffice.com

() U.S. Mail, Postage Prepaid
() Hand Delivered
☒ Electronic Mail
() Facsimile

CHRISTOPHER D. RICH
Clerk of the District Court

By: _____

Deputy Court Clerk



IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA
200 W Front St Rm 1190
Boise, Idaho 83702

NO. _____
FILED P.M. 157

SEP 26 2014

CHRISTOPHER D. RICH, Clerk
By RIC NELSON
DEPUTY

STATE OF IDAHO,
Plaintiff.

vs.

Thomas John Kralovec
Defendant.

DOB: [REDACTED]
DL or SSN: [REDACTED]

CASE NO: CR-FE-2014-0001842

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the above-entitled case is hereby set for:

Status/Meeting in Chambers
Friday, October 03, 2014 02:30 PM
Judge: Renae Hoff

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office.

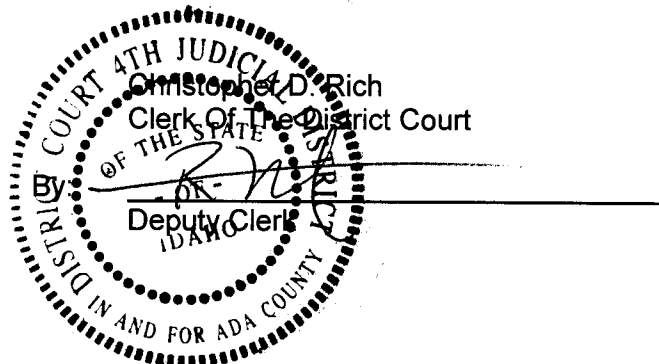
I further certify that copies of this Notice were served as follows on this date Friday, September 26, 2014.

Mailed ___x___ Email ___x___

Eric D Fredericksen
Idaho State Public Defender's Office
3050 N Lake Harbor Ln. Ste. 100
Boise Id 83703
efredericksen@sapd.state.id.us

Ada County Prosecutor's Office
Jill Longhurst
X Via Interdepartmental Mail
X Email

Dated: Friday, September 26, 2014



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NO. 10
A.M. 10 P.M. 10

SEP 30 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Jill Longhurst
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0001842
vs.)	
)	
THOMAS JOHN KRALOVEC,	)	SECOND ADDENDUM TO
	)	DISCOVERY RESPONSE TO
Defendant.	)	COURT
)	
)	
)	

COMES NOW, Jill Longhurst, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted a Second Addendum to Response to Discovery.

RESPECTFULLY SUBMITTED this 22 day of September 2014.

GREG H. BOWER
Ada County Prosecuting Attorney

By: Jill Longhurst
Deputy Prosecuting Attorney

SECOND ADDENDUM TO DISCOVERY RESPONSE TO COURT (KRALOVEC),
Page 1

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FILED _____
A.M. _____ P.M. _____

OCT - 2 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Jill Longhurst
Deputy Prosecuting Attorney
200 W. Front Street
Boise, Idaho 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
THOMAS JOHN KRALOVEC,)
)
Defendant.)
)
_____)

Case No. CR-FE-2014-0001842

**STATE'S LIST
OF POTENTIAL TRIAL
WITNESSES**

COMES NOW, Jill Longhurst, Deputy Prosecuting Attorney, in and for the
County of Ada, State of Idaho, and does hereby provide the following list of trial
witnesses:

- a. Corporal Travis Forrey, c/o Ada County Sheriff's Office
- b. Sergeant Gary Grunewald, c/o Ada County Sheriff's Office
- c. Deputy Richard Michaelson, c/o Ada County Sheriff's Office
- d. Deputy Ashley Porter, c/o Ada County Sheriff's Office
- e. Detective Phil Stoffle, c/o Ada County Sheriff's Office

STATE'S LIST OF POTENTIAL TRIAL WITNESSES (KRALOVEC), Page 1

000158

- f. Deputy Ralph Thompson, c/o Ada County Sheriff's Office
- g. Deputy Luis Torres, c/o Ada County Sheriff's Office
- h. Corporal Gary Ambrosek, c/o Ada County Sheriff's Office
- i. Officer Tad Miller, c/o Boise City Police Department
- j. Heidi Koonce, c/o Ada County Public Defender's Office

DATED this 12 day of October 2014.

GREG H. BOWER

Ada County Prosecuting Attorney

Jill Longhurst

Deputy Prosecuting Attorney

NO. _____ FILED _____
A.M. _____ P.M. _____

OCT - 2 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

160

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant Thomas J. Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842

Judge Hoff

**DEFENDANT'S DISCLOSURE OF
WITNESSES AND EXHIBITS**

Defendant Thomas J. Kralovec, hereby discloses witnesses Defendant intends to call and exhibits Defendant to introduce into evidence at the trial of this matter.

Witnesses

1. Officer Richard W. Michaelson
Ada County Sheriff's Office
2. Margaret Kralovec
c/o Brady Law, Chartered
3. Thomas Kralovec
c/o Brady Law, Chartered

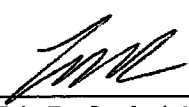
Exhibits

1. Jail Video
2. Medical Records of Officer Michaelson

Defendant reserves the right to amend this witness and exhibit list by addition, substitution and/or deletion. In addition, Defendant reserves the right to call as witnesses all persons disclosed by prosecution and exhibits disclosed by prosecution through discovery and/or witness lists prepared and exhibit lists filed in accordance with the *Idaho Criminal Rules*.

DATED this 2nd day of October, 2014.

BRADY LAW, CHARTERED


By: Eric D. Fredericksen,
Attorneys for Defendant
Thomas J. Kralovec

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2nd day of October, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Jill Longhurst
Deputy Prosecuting Attorney
Ada County Prosecuting Attorney's Office
200 W. Front Street, Room 3191
Boise, ID 83702
(Attorneys for Plaintiff)

<input type="checkbox"/>	U.S. Mail, Postage Prepaid
<input type="checkbox"/>	Express Mail
<input type="checkbox"/>	Hand Delivery
<input type="checkbox"/>	Facsimile Transmission
<input type="checkbox"/>	Federal Express
<input checked="" type="checkbox"/>	Electronic Mail


Eric D. Fredericksen

160

GREG H. BOWER
Ada County Prosecuting Attorney

Jill Longhurst
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, ID 83702
Telephone: (208) 287-7700

NO. 30
FILED
A.M. 11 P.M.

OCT - 3 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)

Plaintiff,)

vs.)

THOMAS JOHN KRALOVEC,)

Defendant.)

Case No. CR-FE-2014-0001842

**THIRD ADDENDUM TO
DISCOVERY RESPONSE TO
COURT**

COMES NOW, Jill Longhurst, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted a Third Addendum to Response to Discovery.

RESPECTFULLY SUBMITTED this 30 day of October 2014.

GREG H. BOWER
Ada County Prosecuting Attorney

By: Jill Longhurst
Deputy Prosecuting Attorney

THIRD ADDENDUM TO DISCOVERY RESPONSE TO COURT (KRALOVEC),

Page 1

000162

NO. _____
A.M. _____ FILED P.M. 3:25

OCT 03 2014

CHRISTOPHER D. RICH, Clerk
By RIC NELSON
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA


STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0001842
)	
vs.	)	AMENDED INFORMATION
)	
THOMAS JOHN KRALOVEC,	)	Defendant's DOB: [REDACTED]
	)	Defendant's SSN: [REDACTED]
Defendant.)	
_____)	

GREG H. BOWER, Prosecuting Attorney, in and for the County of Ada, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Ada, and states that THOMAS JOHN KRALOVEC is accused by this Information of the crime of: BATTERY ON A CORRECTIONAL OFFICER, JUDGE OR PROBATION OFFICER, FELONY, I.C. §18-915(2), 903 which crime was committed as follows:

That the Defendant, THOMAS JOHN KRALOVEC, on or about the 7th day of February, 2014, in the County of Ada, State of Idaho, did willfully and unlawfully use force

and/or violence upon the person of Ada County Deputy Michaelson by using his leg to kick Deputy Michaelson in the shoulder, where the Defendant knew or had reason to know that Deputy Michaelson was a jailer/correctional officer and did commit said battery while Deputy Michaelson was engaged in the performance of his duties.

All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.

For  _____
GREG H. BOWER
Ada County Prosecuting Attorney

Time	Speaker	Note
<u>8:58:15 AM</u>	Judge	calls St v. Thomas Kralovec CR-FE-14-1842
<u>8:58:26 AM</u>	counsel	Jill Longhurst/Eric Fredericksen and both present, Thomas Kralovec present on bond
<u>8:58:54 AM</u>	Judge	take up amended info filed on Friday 10/03/14 to arraign defendant on charge
<u>9:00:26 AM</u>	Judge	Chip Jiles will be here during voir dire
<u>9:01:18 AM</u>	Judge	inquires defendant over the amended info with atty
<u>9:01:50 AM</u>	Judge	Waive formal reading, adv. charges and penalties
<u>9:03:55 AM</u>	State Attorney	ask change on time frame
<u>9:04:10 AM</u>	Defense Attorney	no obj to amendment
<u>9:04:40 AM</u>	Judge	inquires on defendant n.g. plea
<u>9:04:58 AM</u>	Defense Attorney	pleas n.g
<u>9:05:04 AM</u>	Judge	inquires on pre-liminary
<u>9:05:11 AM</u>	Defense Attorney	argues regarding the audio
<u>9:05:58 AM</u>	Judge	inquires counsel on resisting
<u>9:06:26 AM</u>	State Attorney	argues 404(b)
<u>9:07:21 AM</u>	Judge	inquires
<u>9:07:26 AM</u>	State Attorney	argues at time of arrest
<u>9:08:02 AM</u>	Defense Attorney	it regards prior to jail
<u>9:08:51 AM</u>	State Attorney	comments
<u>9:09:11 AM</u>	Judge	I see this as a relevance objection, go ahead and select a jury, will take under advisement, any other matters
<u>9:10:53 AM</u>	State Attorney	would like to ask questions befor the jurors
<u>9:11:14 AM</u>	Judge	address the defendant
<u>9:11:20 AM</u>	State Attorney	ask court if they will ask during voir dire
<u>9:12:05 AM</u>	Judge	ask defense counsel
<u>9:12:27 AM</u>	Defense Attorney	responds
<u>9:12:34 AM</u>	Judge	ask bailiff regarding roll call
<u>9:13:53 AM</u>	State Attorney	ask if visiting judge not to sit a counsel table
<u>9:14:44 AM</u>	Judge	not going to ask them to leave, any other housekeeping. Bring up the jury

Time	Speaker	Note
9:16:20 AM	court	CRFE-14-1842 St v. Thomas Kralovec
9:16:20 AM	counsel	Jill Longhurst/Eric Federicksen present, Thomas Kralovec present on bond, Chis Jiles be here on during the vire dire
9:16:20 AM	Judge	bailiff has taken roll call of jury
9:16:20 AM	Judge	calls the case for the jury, address the jury

Time	Speaker	Note
<u>9:26:32 AM</u>	Judge	calls case CR-FE-14-1842 St v. Thomas Kralovec court address the jury
<u>9:27:04 AM</u>	Judge	introduces counsel
<u>9:29:34 AM</u>	Judge	clerk to swear in jury panel, court voir dire
<u>9:57:34 AM</u>	Judge	court admonishes the jurors for recess
<u>9:58:23 AM</u>	Judge	back on record con't voir dire
<u>10:08:58 AM</u>	State Attorney	follow up question
<u>10:20:02 AM</u>	Defense Attorney	follow up question
<u>10:26:57 AM</u>	Judge	address the panel
<u>10:27:02 AM</u>	State Attorney	voir dire
<u>10:41:41 AM</u>	Judge	court inquires
<u>10:42:35 AM</u>	State Attorney	con't voir dire
<u>10:47:57 AM</u>	State Attorney	pass the panel
<u>10:48:03 AM</u>	Defense Attorney	voir dire
<u>11:02:17 AM</u>	Defense Attorney	pass panel
<u>11:02:25 AM</u>	Judge	counsel pass the panel for cause, preemptory challenges
<u>11:16:06 AM</u>	Judge	send the jurors out for recess, admonishes the panel
<u>11:17:58 AM</u>	Judge	back on record excuse jury, had each side review preemptory challenges - per counsel. Court goes over the selected jurors
<u>11:29:41 AM</u>	Judge	bailiff to return the jurors.
<u>11:31:58 AM</u>	Judge	court calls the numbers for the selected jury, excuse the balance of the panel
<u>11:35:32 AM</u>	Judge	address the panel jury panel, clerk to swear in the jury panel, recess
<u>11:39:08 AM</u>	Judge	back on record to go over instruction 1-9, outside the presence the jury, both counsel no obj.
<u>12:18:21 PM</u>	Judge	back on record, selected jury seated. court reads open instructions
<u>12:26:37 PM</u>	Judge	clerk will read the info, con't opening structions
<u>12:38:17 PM</u>	State Attorney	opening
<u>12:46:44 PM</u>	Defense Attorney	opening
<u>12:48:41 PM</u>	State Attorney	calls Sgt. Gary Grunewald sworn in
<u>12:59:38 PM</u>	ct	st exh 2, id, moved , no obj, adm

<u>1:18:32 PM</u>	Defense Attorney	obj hearsay
<u>1:18:39 PM</u>	Judge	overruled
<u>1:18:42 PM</u>	Defense Attorney	obj, hearsay
<u>1:19:01 PM</u>	Judge	sustained
<u>1:19:05 PM</u>	State Attorney	con't direct
<u>1:38:36 PM</u>	Defense Attorney	obj, hearsay
<u>1:38:41 PM</u>	Judge	sustained
<u>1:38:48 PM</u>	State Attorney	argues
<u>1:38:52 PM</u>	Judge	will allow
<u>1:38:56 PM</u>	State Attorney	con't direct
<u>1:39:10 PM</u>	Defense Attorney	obj hearsay
<u>1:39:18 PM</u>	Judge	sustained
<u>1:39:20 PM</u>	State Attorney	argues
<u>1:39:28 PM</u>	Judge	will allow
<u>1:39:32 PM</u>	State Attorney	con't direct
<u>1:40:21 PM</u>	Defense Attorney	obj hearsay
<u>1:40:26 PM</u>	Judge	overruled
<u>1:40:34 PM</u>	State Attorney	con't direct
<u>1:45:16 PM</u>	Defense Attorney	obj relevance
<u>1:45:25 PM</u>	Judge	sustained
<u>1:45:30 PM</u>	Defense Attorney	obj, relevance
<u>1:45:35 PM</u>	Judge	sustained
<u>1:45:42 PM</u>	Defense Attorney	obj relevance
<u>1:45:49 PM</u>	Judge	sustained
<u>1:45:53 PM</u>	State Attorney	con't direct
<u>1:46:43 PM</u>	ct	st exh 1 id, moved , no obj, adm
<u>1:47:17 PM</u>	State Attorney	con't direct
<u>1:48:45 PM</u>	ct	st exh 1-1 - 1-7, id, moved , no obj, adm

<u>1:49:07 PM</u>	State Attorney	con't direct
<u>1:58:27 PM</u>	ct	st exh 1.13 – 1.23, id, moved ,
<u>1:58:33 PM</u>	Defense Attorney	obj argues
<u>1:58:46 PM</u>	State Attorney	argues
<u>1:58:52 PM</u>	Judge	will over rule adm 1.13-1.23
<u>2:03:22 PM</u>	Defense Attorney	obj, question for the jury
<u>2:03:30 PM</u>	Judge	will allow
<u>2:03:38 PM</u>	State Attorney	con't dire
<u>2:03:49 PM</u>	Defense Attorney	same obj, same obj
<u>2:03:58 PM</u>	Judge	overruled
<u>2:04:10 PM</u>	State Attorney	con't direct
<u>2:32:39 PM</u>	ct	st exh 3, id, moved , no obj, adm
<u>2:32:47 PM</u>	State Attorney	con't direct
<u>2:37:29 PM</u>	State Attorney	pass the witness
<u>2:37:37 PM</u>	Judge	recess for the night, admonishes the panel
<u>2:39:37 PM</u>	Judge	inquires on issue about the officer
<u>2:40:01 PM</u>	Defense Attorney	responds
<u>2:40:16 PM</u>	State Attorney	responds
<u>2:40:47 PM</u>	Defense Attorney	responds
<u>2:41:07 PM</u>	Judge	how long is audio
<u>2:41:17 PM</u>	State Attorney	responds
<u>2:42:00 PM</u>	Judge	needs a copy of that exhibit, is this relevant under 401, will sustained obj, only if accumulative. Recess for the night

Time	Speaker	Note
<u>9:06:09 AM</u>	Judge	calls case CR-FE-14-01842 St v. Thomas Kralovec
<u>9:06:19 AM</u>	parties	Jill Longhurst present, Eric Fredericksen present, Thomas Kralovec present on bond
<u>9:06:46 AM</u>	Judge	witness to take stand still under oath,
<u>9:11:33 AM</u>	Defense Attorney	cross
<u>9:13:22 AM</u>	ct	df exh A, id, moved ,
<u>9:13:45 AM</u>	State Attorney	voir dire aid of obj, no relevance
<u>9:14:22 AM</u>	Defense Attorney	inquires, con't cross,
<u>9:15:09 AM</u>	Judge	court to review document
<u>9:15:34 AM</u>	Judge	will over rule and order redaction of website, clerk to redact will be admit
<u>9:16:39 AM</u>	Defense Attorney	con't cross
<u>9:17:02 AM</u>	State Attorney	obj to reading into the record
<u>9:17:09 AM</u>	Defense Attorney	con't cross
<u>9:20:46 AM</u>	ct	st exh 1-11, id, moved , no obj, adm
<u>9:22:33 AM</u>	Defense Attorney	con't cross
<u>9:23:09 AM</u>	State Attorney	obj relevance
<u>9:23:15 AM</u>	Defense Attorney	argues
<u>9:23:18 AM</u>	Judge	will allow, overruled
<u>9:23:28 AM</u>	Defense Attorney	con't cross
<u>9:26:45 AM</u>	Judge	witness is excused
<u>9:26:58 AM</u>	State Attorney	calls Dept Gary Ambrosek, sworn in, direct
<u>9:34:53 AM</u>	Defense Attorney	obj, may we approach
<u>9:35:03 AM</u>	Judge	side bar
<u>9:36:14 AM</u>	State Attorney	con't direct
<u>9:37:04 AM</u>	Defense Attorney	obj relevance
<u>9:37:12 AM</u>	Judge	sustained not admitted

<u>9:41:13 AM</u>	Defense Attorney	obj hearsay
<u>9:41:17 AM</u>	Judge	will allow, he can answer yes or no
<u>9:41:24 AM</u>	State Attorney	con't direct
<u>9:49:56 AM</u>	ct	st exh 8, id, moved , no obj, adm
<u>9:50:05 AM</u>	State Attorney	con't direct
<u>10:00:26 AM</u>	Defense Attorney	obj hearsay
<u>10:00:30 AM</u>	Judge	overruled
<u>10:00:40 AM</u>	State Attorney	con't direct
<u>10:02:45 AM</u>	Defense Attorney	cross
<u>10:08:42 AM</u>	State Attorney	obj,
<u>10:08:50 AM</u>	Judge	overruled
<u>10:08:53 AM</u>	Defense Attorney	cross
<u>10:11:18 AM</u>	Judge	witness is excused
<u>10:11:24 AM</u>	State Attorney	calls deputy Ralph Thompson, sworn in, direct exam
<u>10:34:13 AM</u>	Defense Attorney	obj, hearsay
<u>10:34:17 AM</u>	Judge	will allow
<u>10:34:21 AM</u>	State Attorney	dict
<u>10:34:36 AM</u>	Defense Attorney	obj, hearsay
<u>10:34:40 AM</u>	State Attorney	argues
<u>10:34:42 AM</u>	Judge	will allow
<u>10:34:46 AM</u>	State Attorney	con't direct
<u>10:35:06 AM</u>	Defense Attorney	obj hearsay
<u>10:35:11 AM</u>	Judge	overruled
<u>10:35:14 AM</u>	State Attorney	con't direct
<u>10:39:14 AM</u>	Defense Attorney	cross
<u>10:45:41 AM</u>	Judge	witness excused., recess admonishes the jury
<u>10:46:10 AM</u>	Judge	back on record, jury seated
<u>11:06:59 AM</u>	State Attorney	calls Luis Torres, sworn in, direct exam

<u>11:12:45 AM</u>	Defense Attorney	obj, not in evidence
<u>11:12:53 AM</u>	Judge	overruled
<u>11:12:57 AM</u>	State Attorney	direct
<u>11:17:59 AM</u>	Defense Attorney	obj, hearsay
<u>11:18:02 AM</u>	Judge	overruled
<u>11:18:08 AM</u>	State Attorney	direct
<u>11:23:13 AM</u>	Defense Attorney	obj, leading
<u>11:23:16 AM</u>	Judge	sustained
<u>11:23:25 AM</u>	Defense Attorney	obj, hearsay
<u>11:23:30 AM</u>	Judge	sustained
<u>11:23:35 AM</u>	State Attorney	direct
<u>11:28:57 AM</u>	Defense Attorney	obj, hearsay
<u>11:29:12 AM</u>	Judge	overruled
<u>11:29:16 AM</u>	State Attorney	direct
<u>11:29:52 AM</u>	Defense Attorney	cross
<u>11:36:20 AM</u>	State Attorney	obj relevance
<u>11:36:28 AM</u>	Judge	sustained
<u>11:36:31 AM</u>	State Attorney	follow up
<u>11:36:39 AM</u>	Judge	witness excused, and in recess
<u>11:38:02 AM</u>	Judge	back on record, jury seated
<u>12:33:07 PM</u>	Judge	
<u>12:33:16 PM</u>	State Attorney	calls Richard Michaelson, sworn in, direct
<u>1:03:17 PM</u>	Defense Attorney	obj, hearsay
<u>1:03:21 PM</u>	Judge	sustained
<u>1:03:24 PM</u>	State Attorney	direct
<u>1:03:33 PM</u>	Defense Attorney	obj, hearsay
<u>1:03:36 PM</u>	Judge	sustained
<u>1:03:42 PM</u>	State Attorney	argues
<u>1:03:45 PM</u>	Judge	sustained

<u>1:03:50 PM</u>	State Attorney	direct
<u>1:07:15 PM</u>	ct	st exh 1-9, 1-10, 1-12 , id, moved , no obj, adm
<u>1:08:04 PM</u>	State Attorney	direct
<u>1:20:21 PM</u>	SDefense Attorney	obj, relevance
<u>1:20:35 PM</u>	Judge	sustained
<u>1:21:01 PM</u>	Defense Attorney	5 min recess
<u>1:30:14 PM</u>	Judge	back on record
<u>1:30:20 PM</u>	Defense Attorney	cross
<u>1:38:54 PM</u>	State Attorney	obj, argues
<u>1:39:06 PM</u>	Judge	will allow, but keep it limited
<u>1:40:35 PM</u>	Defense Attorney	cross
<u>1:41:11 PM</u>	State Attorney	obj, to the def test
<u>1:41:32 PM</u>	Defense Attorney	can we approach
<u>1:41:38 PM</u>	Judge	sidebar
<u>1:42:17 PM</u>	Defense Attorney	cross
<u>1:42:25 PM</u>	State Attorney	obj hearsay
<u>1:42:29 PM</u>	Judge	overruled
<u>1:42:34 PM</u>	Defense Attorney	cross
<u>1:44:45 PM</u>	State Attorney	obj, argues
<u>1:44:56 PM</u>	Judge	sustained
<u>1:44:59 PM</u>	State Attorney	ask the answer to be stricken
<u>1:45:07 PM</u>	Judge	will be stricken
<u>1:45:14 PM</u>	Defense Attorney	cross
<u>1:45:39 PM</u>	State Attorney	obj, relevance
<u>1:45:45 PM</u>	Judge	sustained
<u>1:45:55 PM</u>	Defense Attorney	cross
<u>1:46:04 PM</u>	State Attorney	obj, relevance
<u>1:46:06 PM</u>	Judge	sustained

<u>1:46:09 PM</u>	Defense Attorney	cross
<u>1:46:18 PM</u>	State Attorney	obj, relevance
<u>1:46:24 PM</u>	Defense Attorney	can we approach
<u>1:46:29 PM</u>	Judge	sidebar
<u>1:47:30 PM</u>	Defense Attorney	cross
<u>1:47:46 PM</u>	State Attorney	obj, foundation
<u>1:47:50 PM</u>	Judge	sustained
<u>1:47:53 PM</u>	Defense Attorney	cross
<u>1:48:30 PM</u>	State Attorney	obj, relevance
<u>1:48:39 PM</u>	Defense Attorney	cross
<u>1:49:18 PM</u>	State Attorney	obj, classification
<u>1:49:24 PM</u>	Judge	sustained
<u>1:49:28 PM</u>	Defense Attorney	cross
<u>1:49:32 PM</u>	State Attorney	obj, relevance
<u>1:49:35 PM</u>	sustained	
<u>1:49:38 PM</u>	Defense Attorney	cross
<u>1:49:42 PM</u>	State Attorney	obj, relevance
<u>1:49:46 PM</u>	Judge	overruled
<u>1:49:50 PM</u>	Defense Attorney	cross
<u>1:49:56 PM</u>	State Attorney	obj, argues
<u>1:50:02 PM</u>	Judge	overruled
<u>1:50:06 PM</u>	Defense Attorney	cross
<u>1:50:53 PM</u>	State Attorney	obj, to form of question
<u>1:51:00 PM</u>	Judge	ask a better question
<u>1:51:05 PM</u>	Defense Attorney	cross
<u>1:51:40 PM</u>	State Attorney	obj, charc
<u>1:51:47 PM</u>	Judge	will allow

<u>1:51:50 PM</u>	Defense Attorney	cross
<u>1:52:46 PM</u>	State Attorney	obj, purpose
<u>1:52:51 PM</u>	Judge	sustained
<u>1:52:55 PM</u>	Defense Attorney	cross
<u>1:53:22 PM</u>	State Attorney	obj, argues, compound
<u>1:53:28 PM</u>	Judge	ask another question
<u>1:53:52 PM</u>	State Attorney	re-direct
<u>1:56:10 PM</u>	Defense Attorney	re-cross
<u>1:56:25 PM</u>	Judge	witness excused
<u>1:56:32 PM</u>	State Attorney	calls Tadd Miller
<u>1:56:47 PM</u>	Defense Attorney	we need to take up that issue
<u>1:56:54 PM</u>	Judge	jury to go to recess
<u>1:57:49 PM</u>	Judge	def. motion - reviews. will hear arguments
<u>1:58:23 PM</u>	Defense Attorney	argues
<u>1:59:06 PM</u>	State Attorney	argues
<u>1:59:43 PM</u>	Defense Attorney	responds
<u>1:59:49 PM</u>	Judge	my view, will allow to have officer to lay the foundation, will be cuation of follow up question by the state,
<u>2:01:05 PM</u>	Defense Attorney	will to be able to. stip to foundation
<u>2:01:19 PM</u>	Judge	remarks - bring the jury in
<u>2:03:04 PM</u>	State Attorney	calls Officer Tad Miller, sworn in, direct exam
<u>2:05:21 PM</u>	ct	st exh 6, id, moved ,
<u>2:05:34 PM</u>	Defense Attorney	prior obj
<u>2:05:53 PM</u>	Judge	overruled
<u>2:06:06 PM</u>	State Attorney	direct
<u>2:35:51 PM</u>	Defense Attorney	obj, relevance,
<u>2:36:01 PM</u>	Judge	sustained
<u>2:36:04 PM</u>	State Attorney	direct

<u>2:36:19 PM</u>	Defense Attorney	cross
<u>2:36:29 PM</u>	Judge	witness is excused., recess for the day., admonishes the jury
<u>2:38:34 PM</u>	State Attorney	may rest in the morning
<u>2:38:40 PM</u>	Judge	addressess counsel
<u>2:38:47 PM</u>	Adjourn.	
<u>2:38:47 PM</u>		

Time	Speaker	Note
<u>9:01:58 AM</u>	Judge	calls case CR-FE-14-01842 St v. Thomas Kralovec Day 3 - counsel Jill Longhurst present, Eric Fredericksen present, Thomas Kralovec present on bond
<u>9:02:03 AM</u>	Defense Attorney	offer to a jail call, State Attorney has a obj - hearsay
<u>9:02:25 AM</u>	Judge	which exhibit
<u>9:02:34 AM</u>	Defense Attorney	st exh 2
<u>9:02:39 AM</u>	Judge	comments
<u>9:02:55 AM</u>	State Attorney	will not offer the letter or calls koontz
<u>9:03:08 AM</u>	Judge	inquires
<u>9:03:12 AM</u>	State Attorney	will rest before the jury this morning
<u>9:03:21 AM</u>	Judge	hears obj on the hearsay
<u>9:03:35 AM</u>	State Attorney	argues 801(d)(2)
<u>9:05:33 AM</u>	Judge	inquires on the evidence being offered
<u>9:05:45 AM</u>	Defense Attorney	argues 803(8)a
<u>9:06:27 AM</u>	Judge	comments - overruled states objection- inquires on evidence and motion
<u>9:07:28 AM</u>	Defense Attorney	motion Rule 29
<u>9:07:43 AM</u>	State Attorney	lets take that up know
<u>9:07:50 AM</u>	Defense Attorney	argues Motion for Rule 29
<u>9:08:37 AM</u>	State Attorney	argues
<u>9:09:13 AM</u>	Judge	ruling motion denied
<u>9:11:32 AM</u>	State Attorney	comments
<u>9:11:44 AM</u>	Judge	comments
<u>9:13:53 AM</u>	Judge	jury present and seated and addressess them
<u>9:16:12 AM</u>	State Attorney	states rests
<u>9:16:27 AM</u>	Defense Attorney	on piece of evidence to offer, recording moves to offer move to def exhibit C
<u>9:17:40 AM</u>	State Attorney	stip, and obj- here say
<u>9:17:55 AM</u>	Judge	noted, C is admitted
<u>9:18:08 AM</u>	Defense Attorney	publish for the jury,

<u>9:21:13 AM</u>	Defense Attorney	defense rest
<u>9:21:20 AM</u>	Judge	inquires state
<u>9:21:25 AM</u>	State Attorney	no rebuttal
<u>9:21:28 AM</u>	Judge	address the jury recess
<u>9:22:45 AM</u>	Judge	back on record outside the presence of jury, counsel has jury instructions and verdict form for obj and corrections
<u>10:47:11 AM</u>	State Attorney	would like to give instruction, not part of the IGI instruction, and have objections to the lesser included
<u>10:48:01 AM</u>	Judge	will hear from defense
<u>10:48:10 AM</u>	Defense Attorney	no objections to proposed court instructions, but objects to the state proposed instruction
<u>10:49:51 AM</u>	Judge	comments on state proposed instruction, dis-inclinded to give it. will file it in the court file
<u>10:51:35 AM</u>	Judge	addresses counsel - denies plaintiff's request
<u>10:53:24 AM</u>	Judge	counsel no obj to the verdict form - addresses counsel on closing
<u>10:56:29 AM</u>	Judge	bring jury in
<u>11:00:19 AM</u>	Judge	court addresses jury - Final Jury Instructions
<u>11:16:53 AM</u>	State Attorney	closing arguments
<u>11:41:53 AM</u>	Defense Attorney	need to bring up acouple of issues
<u>11:42:12 AM</u>	Judge	sidebar
<u>11:42:12 AM</u>	Defense Attorney	closing arguments
<u>12:00:21 PM</u>	State Attorney	final closing
<u>12:03:49 PM</u>	Defense Attorney	obj, misrpresent my statement
<u>12:04:05 PM</u>	Judge	overruled
<u>12:04:09 PM</u>	State Attorney	con't final closing
<u>12:10:15 PM</u>	Judge	clerk to swear in the bailiff, pick alt juror's, back to deliberate
<u>4:01:22 PM</u>	Judge	back on record have verdict
<u>4:01:38 PM</u>	Judge	bailiff to hand court the verdict
<u>4:02:26 PM</u>	Judge	clerk, to read the verdict guilty, defense would like to have the jury polled.
<u>4:04:45 PM</u>	Judge	discharges the jury
<u>4:07:03 PM</u>	Defense Attorney	waive PSI
<u>4:07:11 PM</u>	State Attorney	argues waiving asking court to order

<u>4:07:20 PM</u>	Defense Attorney	has 5th admendment rights
<u>4:07:37 PM</u>	Judge	comments, will let Judge Scott hear on Friday 10/17 @ 10 am for Motion hearings, still on bail will need to be here
<u>4:09:24 PM</u>	State Attorney	argues pre-trial release
<u>4:10:03 PM</u>	State Attorney	hands court the pre-trial affidavit to be filed.
<u>4:10:49 PM</u>	Judge	inquires that J. Scott heard motion
<u>4:10:57 PM</u>	Defense Attorney	argues
<u>4:12:00 PM</u>	Judge	will let Judge Scott will hear bond, but filing of the Affidavit will be filed.
<u>4:12:43 PM</u>	Adjourn.	
<u>4:12:43 PM</u>		

Instruction _____

OCT 08 2014

OFFICE OF THE CLERK
BY _____
Deputy

In order to prove a battery, by the use of force or violence or by striking another, the State does not need to prove that the victim was actually injured.

NO. _____ FILED _____
A.M. _____ P.M. 4:46

OCT 08 2014

CHRISTOPHER D. RICH, Clerk
By RIC NELSON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

THOMAS JOHN KRALOVEC

Defendant.

Case No. CR-FE-2014-0001842

JURY INSTRUCTIONS

THE HONORABLE RENAE HOFF

SENIOR DISTRICT JUDGE PRESIDING

INSTRUCTION NO. 1

Now that you have been sworn as jurors to try this case, I want to go over with you what will be happening. I will describe how the trial will be conducted and what we will be doing. At the end of the trial, I will give you more detailed guidance on how you are to reach your decision.

Because the state has the burden of proof, it goes first. After the state's opening statement, the defense may make an opening statement, or may wait until the state has presented its case.

The state will offer evidence that it says will support the charge against the defendant. The defense may then present evidence, but is not required to do so. If the defense does present evidence, the state may then present rebuttal evidence. This is evidence offered to answer the defense's evidence.

After you have heard all the evidence, I will give you additional instructions on the law. After you have heard the instructions, the state and the defense will each be given time for closing arguments. In their closing arguments, they will summarize the evidence to help you understand how it relates to the law. Just as the opening statements are not evidence, neither are the closing arguments. After the closing arguments, you will leave the courtroom together to make your decision. During your deliberations, you will have with you my instructions, the exhibits admitted into evidence and any notes taken by you in court.

INSTRUCTION NO. 2

This criminal case has been brought by the state of Idaho. I will sometimes refer to the state as the prosecution. The state is represented at this trial by Ada County deputy prosecuting attorney, Jill Longhurst. The defendant, Thomas John Kralovec, is represented by his lawyer, Eric Frederickson.

The defendant is charged by the state of Idaho with a violation of the law. The charge is contained in a document called the Information. The clerk shall read the Information and state the defendant's plea to the charge.

The Information is simply a description of the charge; it is not evidence.

INSTRUCTION NO. 3

Under our law and system of justice, the defendant is presumed to be innocent. The presumption of innocence means two things.

First, the state has the burden of proving the defendant guilty. The state has that burden throughout the trial. The defendant is never required to prove his innocence, nor does the defendant ever have to produce any evidence at all.

Second, the state must prove the alleged crime beyond a reasonable doubt. A reasonable doubt is not a mere possible or imaginary doubt. It is a doubt based on reason and common sense. It may arise from a careful and impartial consideration of all the evidence, or from lack of evidence. If after considering all the evidence you have a reasonable doubt about the defendant's guilt, you must find the defendant not guilty.

INSTRUCTION NO. 4

Your duties are to determine the facts, to apply the law set forth in my instructions to those facts, and in this way to decide the case. In so doing, you must follow my instructions regardless of your own opinion of what the law is or should be, or what either side may state the law to be. You must consider them as a whole, not picking out one and disregarding others. The order in which the instructions are given has no significance as to their relative importance. The law requires that your decision be made solely upon the evidence before you. Neither sympathy nor prejudice should influence you in your deliberations. Faithful performance by you of these duties is vital to the administration of justice.

In determining the facts, you may consider only the evidence admitted in this trial. This evidence consists of the testimony of the witnesses, the exhibits offered and received, and any stipulated or admitted facts. The production of evidence in court is governed by rules of law. At times during the trial, an objection may be made to a question asked a witness, or to a witness' answer, or to an exhibit. This simply means that I am being asked to decide a particular rule of law. Arguments on the admissibility of evidence are designed to aid the Court and are not to be considered by you nor affect your deliberations. If I sustain an objection to a question or to an exhibit, the witness may not answer the question or the exhibit may not be considered. Do not attempt to guess what the answer might have been or what the exhibit might have shown. Similarly, if I tell you not to consider a particular statement or exhibit you should put it out of your mind, and not refer to it or rely on it in your later deliberations.

During the trial I may have to talk with the parties about the rules of law which should apply in this case. Sometimes we will talk here at the bench. At other times I will excuse you from the courtroom so that you can be comfortable while we work out any problems. You are

not to speculate about any such discussions. They are necessary from time to time and help the trial run more smoothly.

Some of you have probably heard the terms "circumstantial evidence," "direct evidence" and "hearsay evidence." Do not be concerned with these terms. You are to consider all the evidence admitted in this trial.

However, the law does not require you to believe all the evidence. As the sole judges of the facts, you must determine what evidence you believe and what weight you attach to it.

There is no magical formula by which one may evaluate testimony. You bring with you to this courtroom all of the experience and background of your lives. In your everyday affairs you determine for yourselves whom you believe, what you believe, and how much weight you attach to what you are told. The same considerations that you use in your everyday dealings in making these decisions are the considerations which you should apply in your deliberations.

In deciding what you believe, do not make your decision simply because more witnesses may have testified one way than the other. Your role is to think about the testimony of each witness you heard and decide how much you believe of what the witness had to say.

A witness who has special knowledge in a particular matter may give an opinion on that matter. In determining the weight to be given such opinion, you should consider the qualifications and credibility of the witness and the reasons given for the opinion. You are not bound by such opinion. Give it the weight, if any, to which you deem it entitled.

INSTRUCTION NO. 6

If during the trial I may say or do anything which suggests to you that I am inclined to favor the claims or position of any party, you will not permit yourself to be influenced by any such suggestion. I will not express nor intend to express, nor will I intend to intimate, any opinion as to which witnesses are or are not worthy of belief; what facts are or are not established; or what inferences should be drawn from the evidence. If any expression of mine seems to indicate an opinion relating to any of these matters, I instruct you to disregard it.

INSTRUCTION NO. 7

Do not concern yourself with the subject of penalty or punishment. That subject must not in any way affect your verdict. If you find the defendant guilty, it will be my duty to determine the appropriate penalty or punishment.

INSTRUCTION NO. 8

If you wish, you may take notes to help you remember what witnesses said. If you do take notes, please keep them to yourself until you and your fellow jurors go to the jury room to decide the case. You should not let note-taking distract you so that you do not hear other answers by witnesses. When you leave at night, please leave your notes in the jury room.

If you do not take notes, you should rely on your own memory of what was said and not be overly influenced by the notes of other jurors. In addition, you cannot assign to one person the duty of taking notes for all of you.

INSTRUCTION NO. 9

It is important that as jurors and officers of this court you obey the following instructions at any time you leave the jury box, whether it be for recesses of the court during the day or when you leave the courtroom to go home at night.

Do not discuss this case during the trial with anyone, including any of the attorneys, parties, witnesses, your friends, or members of your family. "No discussion" also means no emailing, text messaging, tweeting, blogging, posting to electronic bulletin boards, and any other form of communication, electronic or otherwise.

Do not discuss this case with other jurors until you begin your deliberations at the end of the trial. Do not attempt to decide the case until you begin your deliberations.

I will give you some form of this instruction every time we take a break. I do that not to insult you or because I don't think you are paying attention, but because experience has shown this is one of the hardest instructions for jurors to follow. I know of no other situation in our culture where we ask strangers to sit together watching and listening to something, then go into a little room together and not talk about the one thing they have in common: what they just watched together.

There are at least two reasons for this rule. The first is to help you keep an open mind. When you talk about things, you start to make decisions about them and it is extremely important that you not make any decisions about this case until you have heard all the evidence and all the rules for making your decisions, and you won't have that until the very end of the trial. The second reason for the rule is that we want all of you working together on this decision when you deliberate. If you have conversations in groups of two or three during the trial, you won't remember to repeat all of your thoughts and observations for the rest of your fellow jurors

when you deliberate at the end of the trial.

Ignore any attempted improper communication. If any person tries to talk to you about this case, tell that person that you cannot discuss the case because you are a juror. If that person persists, simply walk away and report the incident to the bailiff.

Do not make any independent personal investigations into any facts or locations connected with this case. Do not look up any information from any source, including the Internet. Do not communicate any private or special knowledge about any of the facts of this case to your fellow jurors. Do not read or listen to any news reports about this case or about anyone involved in this case, whether those reports are in newspapers or the Internet, or on radio or television.

In our daily lives we may be used to looking for information on-line and to "Google" something as a matter of routine. Also, in a trial it can be very tempting for jurors to do their own research to make sure they are making the correct decision. You must resist that temptation for our system of justice to work as it should. I specifically instruct that you must decide the case only on the evidence received here in court. If you communicate with anyone about the case or do outside research during the trial it could cause us to have to start the trial over with new jurors and you could be held in contempt of court.

While you are actually deliberating in the jury room, the bailiff will confiscate all cell phones and other means of electronic communications. Should you need to communicate with me or anyone else during the deliberations, please notify the bailiff.

INSTRUCTION NO. 10

You have now heard all the evidence in the case. My duty is to instruct you as to the law.

You must follow all the rules as I explain them to you. You may not follow some and ignore others. Even if you disagree or don't understand the reasons for some of the rules, you are bound to follow them. If anyone states a rule of law different from any I tell you, it is my instruction that you must follow.

INSTRUCTION NO. 11

In order for the defendant to be guilty of Battery on a Jailer/Correctional Officer, the state must prove each of the following:

1. On or about February 6, 2014
2. in the state of Idaho
3. the defendant Thomas John Kralovec committed a battery,
4. upon Deputy Michaelson
5. by using his leg to kick Deputy Michaelson in the shoulder
6. at the time of the offense, Deputy Michaelson was a jailer/correctional officer
7. the offense was committed while Deputy Michaelson was engaged in the performance of his duties, and
8. Thomas John Kralovec knew or reasonably should have known that Deputy Michaelson was a jailer/correctional officer.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

INSTRUCTION NO. 12

A "battery" is committed when a person:

- (1) willfully and unlawfully uses force or violence upon the person of another; or
- (2) actually, intentionally and unlawfully strikes another person against the will of the other; or
- (3) unlawfully and intentionally causes bodily harm to an individual.

INSTRUCTION NO. 12 a

With regard to the crime Battery Upon a Jailer/Correctional Officer, the word "wilfully," when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act or make the omission referred to. It does not require any intent to violate law, or injure another, or to acquire any advantage.

INSTRUCTION NO. 13

If your unanimous verdict is that the defendant is not guilty of Battery on a Jailer/Correctional Officer, you must acquit him of that charge. In that event, you must next consider the included offense of Resisting, Delaying or Obstructing an Officer.

INSTRUCTION NO. 14

In order for the defendant to be guilty of Resisting, Delaying or Obstructing an Officer, the state must prove each of the following:

1. On or about February 6, 2014
2. in the state of Idaho
3. the defendant, Thomas John Kralovec, willfully
4. resisted, delayed or obstructed
5. Deputy Richard Michaelson, and/or Deputy Ralph Thompson, and/or Deputy Luis Torres, and/or Corporal Gary Ambrosek, public officers,
6. in the discharge, or attempt to discharge, any duty of the Ada County Sheriff's Office.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

INSTRUCTION NO. 14 a

With regard to the crime of Resisting, Delaying or Obstructing an Officer, the term "public officer" includes any officer or employee of the state government or any subdivision of the state. It includes all peace officers.

The term "peace officer" includes a member of the Idaho State Police, a sheriff or deputy sheriff, a city policeman or marshal, a constable or any other officer duly authorized to enforce municipal, county, or state laws.

INSTRUCTION NO. 14b

In order to show that the offense of Resisting, Delaying or Obstructing a Public Officer was committed "willfully," the state must prove that the defendant knew:

- (1) that the person the defendant resisted, delayed, or obstructed was a public officer; and
- (2) that the public officer was attempting to perform, or was engaged in the performance of, some official duty.

The word "duty" includes only the lawful and authorized acts of a public officer.

INSTRUCTION NO. 15

In every crime or public offense there must exist a union or joint operation of act and intent.

INSTRUCTION NO. 16

It is alleged that the crime charged was committed "on or between" a certain date. If you find the crime was committed, the proof need not show that it was committed on that precise date.

INSTRUCTION NO. 18

Our law provides that "no act committed by a person while in a state of voluntary intoxication is less criminal by reason of the person having been in such condition."

This means that voluntary intoxication, if the evidence shows that the defendant was in such a condition when the defendant allegedly committed the crime charged, is not a defense in this case.

INSTRUCTION NO. 19

A defendant in a criminal trial has a constitutional right not to be compelled to testify. The decision whether to testify is left to the defendant, acting with the advice and assistance of the defendant's lawyer. You must not draw any inference of guilt from the fact that the defendant does not testify, nor should this fact be discussed by you or enter into your deliberations in any way.

INSTRUCTION NO. 20

As members of the jury it is your duty to decide what the facts are and to apply those facts to the law that I have given you. You are to decide the facts from all the evidence presented in the case.

The evidence you are to consider consists of:

1. sworn testimony of witnesses;
2. exhibits which have been admitted into evidence; and
3. any facts to which the parties have stipulated.

Certain things you have heard or seen are not evidence, including:

1. arguments and statements by lawyers. The lawyers are not witnesses. What they say in their opening statements, closing arguments and at other times is included to help you interpret the evidence, but is not evidence. If the facts as you remember them differ from the way the lawyers have stated them, follow your memory;
2. testimony that has been excluded or stricken, or which you have been instructed to disregard; anything you may have seen or heard when the court was not in session.

INSTRUCTION NO. 21

I have outlined for you the rules of law applicable to this case and have told you of some of the matters which you may consider in weighing the evidence to determine the facts. In a few minutes counsel will present their closing remarks to you, and then you will retire to the jury room for your deliberations.

The arguments and statements of the attorneys are not evidence. If you remember the facts differently from the way the attorneys have stated them, you should base your decision on what you remember.

The attitude and conduct of jurors at the beginning of your deliberations are important. It is rarely productive at the outset for you to make an emphatic expression of your opinion on the case or to state how you intend to vote. When you do that at the beginning, your sense of pride may be aroused, and you may hesitate to change your position even if shown that it is wrong. Remember that you are not partisans or advocates, but are judges. For you, as for me, there can be no triumph except in the ascertainment and declaration of the truth.

As jurors you have a duty to consult with one another and to deliberate before making your individual decisions. You may fully and fairly discuss among yourselves all of the evidence you have seen and heard in this courtroom about this case, together with the law that relates to this case as contained in these instructions.

During your deliberations, you each have a right to re-examine your own views and change your opinion. You should only do so if you are convinced by fair and honest discussion that your original opinion was incorrect based upon the evidence the jury saw and heard during the trial and the law as given you in these instructions.

Consult with one another. Consider each other's views, and deliberate with the objective of reaching an agreement, if you can do so without disturbing your individual judgment. Each of you must decide this case for yourself; but you should do so only after a discussion and consideration of the case with your fellow jurors.

However, none of you should surrender your honest opinion as to the weight or effect of evidence or as to the innocence or guilt of the defendant because the majority of the jury feels otherwise or for the purpose of returning a unanimous verdict.

INSTRUCTION NO. 22

You have been instructed as to all the rules of law that may be necessary for you to reach a verdict. Whether some of the instructions apply will depend upon your determination of the facts. You will disregard any instruction which applies to a state of facts which you determine does not exist. You must not conclude from the fact that an instruction has been given that the Court is expressing any opinion as to the facts.

INSTRUCTION NO. 23 *a*

In this case you will return a verdict, consisting of a series of questions. Although the explanations on the verdict form are self-explanatory, they are part of my instructions to you. I will now read the verdict form to you. It states:

"We, the Jury, for our verdict, unanimously answer the question(s) submitted to us as follows:

QUESTION NO. 1: Is Thomas John Kralovec guilty or not guilty of Battery on a Jailer/Correctional Officer?

Not Guilty _____ **Guilty** _____

If you unanimously answered Question No. 1 "**Guilty**", then you should simply sign the verdict form and advise the bailiff. If you unanimously answered Question No. 1 "**Not Guilty**", then proceed to answer Question No. 2.

QUESTION NO. 2: Is Thomas John Kralovec guilty or not guilty of Resisting, Delaying or Obstructing an Officer?

Not Guilty _____ **Guilty** _____"

The verdict form then has a place for it to be dated and signed. You should sign the verdict form as explained in another instruction.

INSTRUCTION NO. 23

The original instructions and the exhibits will be with you in the jury room. They are part of the official court record. For this reason please do not alter them or mark on them in any way.

The instructions are numbered for convenience in referring to specific instructions. There may or may not be a gap in the numbering of the instructions. If there is, you should not concern yourselves about such gap.

INSTRUCTION NO. 24

Upon retiring to the jury room, select one of you as a presiding juror, who will preside over your deliberations. It is that person's duty to see that discussion is orderly; that the issues submitted for your decision are fully and fairly discussed; and that every juror has a chance to express himself or herself upon each question.

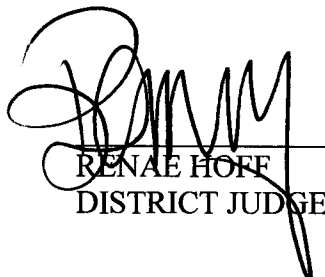
In this case, your verdict must be unanimous. When you all arrive at a verdict, the presiding juror will sign it and you will return it into open court.

Your verdict in this case cannot be arrived at by chance, by lot, or by compromise.

If, after considering all of the instructions in their entirety, and after having fully discussed the evidence before you, the jury determines that it is necessary to communicate with me, you may send a note by the bailiff. You are not to reveal to me or anyone else how the jury stands until you have reached a verdict or unless you are instructed by me to do so.

A verdict form suitable to any conclusion you may reach will be submitted to you with these instructions.

DATED This 8th day of October 2014.



RENAE HOFF
DISTRICT JUDGE

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

OCT 08 2014

CHRISTOPHER D. RICH, Clerk
By RIC NELSON
DEPUTY

STATE OF IDAHO,

Plaintiff,

vs.

THOMAS JOHN KRALOVEC

Defendant.

Case No. CRFE-2014-0001842

VERDICT

We, the Jury, for our verdict, unanimously answer the question(s) submitted to us as follows:

QUESTION NO. 1: Is Thomas John Kralovec guilty or not guilty of Battery on a Jailer/Correctional Officer?

Not Guilty _____ Guilty ✓

If you unanimously answered Question No. 1 "**Guilty**", then you should simply sign the verdict form and advise the bailiff. If you unanimously answered Question No. 1 "**Not Guilty**", then proceed to answer Question No. 2.

QUESTION NO. 2: Is Thomas John Kralovec guilty or not guilty of Resisting, Delaying or Obstructing an Officer?

Not Guilty _____ Guilty _____

Dated this 8th day of October 2014.

Susan Veltman
Presiding Juror

OCT 08 2014

CHRISTOPHER D. RICH, Clerk

By RIC NELSON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

Kralovec, Thomas
Defendant,

Case No. CR-FE-2014-0001842

AFFIDAVIT OF MEGAN DEGROAT

State of Idaho)
) ss.
County of Ada)

Comes now, Deputy Megan DeGroat of the Ada County Sheriff's Office, a witness in the above entitled matter, being first duly sworn on oath deposes and states:

1. I am currently employed as a Pretrial Deputy with the Ada County Sheriff's Office. My current duties include supervising clients who are court-ordered to participate in various Pretrial programs through the Ada County Sheriff's Office.
2. I have knowledge of the facts relevant to the above named Defendant's alleged violations of the conditions of his bond in the above entitled case.
3. On February 7, 2014, the court ordered the Defendant to comply with pretrial conditions as a condition of bond, including no new crimes, maintain all court appearances, no possession or consumption of illegal drugs, no possession or consumption of alcohol or frequenting establishments where alcohol sales are a primary source of revenue and alcohol monitoring as determined post interview by the PSU (Pretrial Services Unit).
4. On February 12, 2014, the Defendant reported to our Pretrial Unit. He was provided an orientation by Deputy Donna Sharp and placed on random urinalysis (UA) testing for alcohol

AFFIDAVIT OF DEPUTY MEGAN DEGROAT-1
KRALOVEC, THOMAS Case No. CR-FE-2014-0001842

000212

(EtG). The Defendant reported to GDT (Global Drug Testing Lab) as instructed for his baseline and tested negative for EtG.

5. On February 25, 2014, a faxed letter was received from the Walker Center in Gooding, Idaho, confirming the Defendant's admittance to their 28 day Residential Treatment program on February 17, 2014.
6. On March 17, 2014, I met with the Defendant. He stated that he was released from the Walker Center yesterday and continuing in an outpatient program. The Walker Center was instructing him to UA test for their program, but for both drugs and alcohol. I told the Defendant that he was not court ordered through his Pretrial Release for drug testing and that he will need to pay for an additional test to provide the Walker Center with his drug test results. The Defendant authorized GDT to release his EtG results from our testing to the Walker Center.
7. On May 16, 2014, I met with the Defendant for his scheduled meeting. The Defendant notified me that he has ordered confirmatory testing on a UA he had submitted for the Walker Center on March 27, 2014. The Defendant denied any drug use or prescriptions that contained opiates. I confirmed with GDT database that the Defendant did order additional testing on his UA from March 27th, and that his test results were positive for opiates at 1326 ng/ml, the cutoff being 300 ng/ml.
8. On June 3, 2014, I met with the Defendant for his scheduled meeting. The Defendant stated that he had an appointment at the Walker Center today and asked about his confirmatory testing. I viewed his confirmatory testing from his UA on March 27, 2014, and the results showed positive for codeine at 199 ng/ml and positive for morphine at 952 ng/ml. I informed the Defendant that his confirmatory test came back positive, and reminded him that his Pretrial release conditions ordered him to no illegal drug use. I asked him again if he had taken any drugs or prescription medications. The Defendant denied any use.
9. In review of the Defendant's UA testing results, the Defendant has submitted 7 valid UA tests for 5-panel (drug) with negative results since his UA on March 27, 2014. All 23 UA tests for EtG

submitted by the Defendant have been valid with negative results. The Defendant has followed all other requirements of his Pretrial program with no violations as of this date.

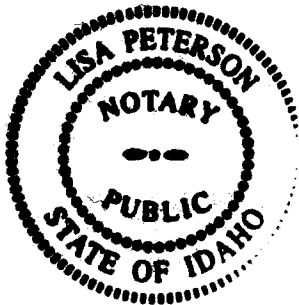
10. On June 4, 2014, I submitted an Affidavit on the above listed violation.
11. On September 28, 2014, the Defendant's group number with Avertest Drug Testing Lab was called. The Defendant failed to report for his scheduled UA.
12. On September 29, 2014, I called the Defendant and advised him of his no show from September 28th. The Defendant stated that he had been exhausted from work and had slept until just after 1:00pm that day, and by the time he called for his group number, the lab was closed for the day. I instructed the Defendant to report to Avertest and his UA results were later reported as negative for alcohol.
13. The Ada County Sheriff's Office Pretrial Unit is recommending a motion be filed immediately pursuant to I.C. 19-2919 so the Defendant may answer to the allegations contained in this Pretrial Affidavit for Non-Compliance.


Dated this 30th day of September, 2014



Megan DeGroat
Ada County Sheriff's Office

SUBSCRIBED AND SWORN TO before me on this 30th day of September 2014.




NOTARY PUBLIC FOR IDAHO
Residing at Boise, Idaho
My Commission Expires: 7/24/19

Reviewed and approved by:



Sergeant Brian Hippe
Ada County Sheriff's Office
Pretrial Services
7180 Barrister
Boise, Idaho 83704

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA
200 W Front St Rm 1190
Boise, Idaho 83702

NO. 103 FILED
A.M. 10:37 P.M.

OCT 09 2014

CHRISTOPHER D. RICH, Clerk
By RIC NELSON
DEPUTY

STATE OF IDAHO,
Plaintiff.

vs.

Thomas John Kralovec
Defendant.

DOB: [REDACTED]
DL or SSN: [REDACTED]

CASE NO: CR-FE-2014-0001842

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the above-entitled case is hereby set for:

Motion Friday, October 24, 2014 10:00 AM
Judge: Jason D. Scott

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office.

I further certify that copies of this Notice were served as follows on this date Thursday, October 09, 2014.

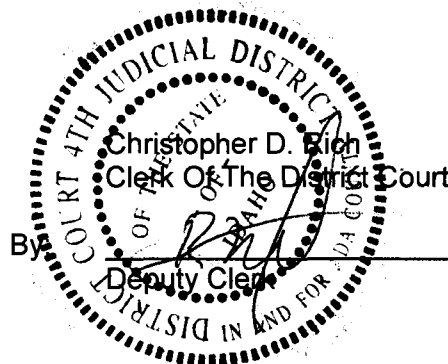
Private Counsel:
Eric D. Fredericksen
IDAHO STATE APPELLATE PUBLIC DEFENDER'S OFFICE
3050 Lake Harbor Ln, Ste 100
Boise, ID 83703

Mailed ☒ Hand Delivered ☐

Prosecutor:
Jill Longhurst
Via Interdepartmental Mail

Mailed ☐ Hand Delivered ☒

Dated: Thursday, October 09, 2014



IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA OCT 09 2014
200 W Front St Rm 1190
Boise, Idaho 83702

CHRISTOPHER D. RICH, Clerk
By RIC NELSON
DEPUTY

STATE OF IDAHO,
Plaintiff.
vs.
Thomas John Kralovec
Defendant.

CASE NO: CR-FE-2014-0001842

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the above-entitled case is hereby set for:

Sentencing Friday, November 14, 2014 01:30 PM
Judge: Jason D. Scott

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office.

I further certify that copies of this Notice were served as follows on this date Thursday, October 09, 2014.

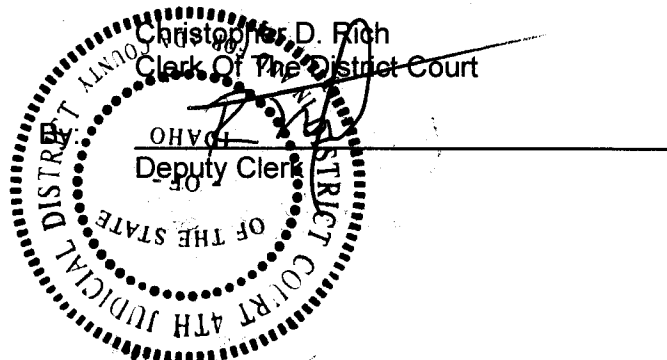
Private Counsel:
Eric D Fredericksen
ATTORNEY AT LAW
3050 Lake Harbor Ln, Suite 100
Boise ID 83703

Mailed ☒ Hand Delivered ☐

Prosecutor:
Jill Longhurst
VIA INTERDEPARTMENTAL MAIL

Mailed ☒ Hand Delivered ☐

Dated: Thursday, October 09, 2014



Time	Speaker	Note
11:10:10 AM		
11:10:10 AM		
11:10:10 AM		
11:18:05 AM		ST v THOMAS KRALOVEC CRFE14-01842 REVOKE (Fredricksen)BOND
11:18:10 AM		Counsel: Harmer/Fredricksen
11:18:33 AM	Harmer	Argues motion. 2 days before trial def. missed UA. This is basis of revocation. Judge Hoff was not sure if this Court would want a PSI.
11:20:03 AM	Fredricksen	Meeting with PSI was done yesterday - that process is underway. Responds to motion.
11:24:57 AM	Harmer	Responds.
11:26:08 AM	Fredricksen	Responds.
11:26:20 AM	Judge Scott	Denies motion of revocation of bond. This does not reflect on sentencing.
11:28:17 AM	Fredricksen	Requests for Judge Hoff to do sentencing or in alternative this Court listen to the audio of the JT.
11:29:01 AM	Harmer	All info this Court needs will be in PSI, def can argue at sentencing any evidence
11:29:44 AM	Judge Scott	Denies motion to have Judge Hoff handle SH. Counsel free to file written motion if wanted.
11:31:06 AM		End of Case
11:31:06 AM		
11:31:06 AM		

Time	Speaker	Note
<u>2:21:06 PM</u>		End of Case
<u>2:21:06 PM</u>		
<u>2:21:06 PM</u>		
<u>2:21:06 PM</u>		
<u>2:21:06 PM</u>		
<u>2:21:55 PM</u>		ST v THOMAS KRALOVEC CRFE14-01842 SENTENCING (Fredricksen)BOND
<u>2:22:09 PM</u>		Counsel: Jill Longhurst/Eric Fredricksen
<u>2:24:11 PM</u>	Fredricksen	Lists corrections in PSI.
<u>2:27:49 PM</u>	Longhurst	Restitution is \$38, 372.
<u>2:28:01 PM</u>	Fredricksen	Objects to restitution and will request a hearing on that.. Will file a motion to compel.
<u>2:28:42 PM</u>	Longhurst	The restitution is key for the state. This should be addressed prior to sentencing.
<u>2:30:34 PM</u>	Fredricksen	Responds. We object based on we feel these are previous injuries we agree to pay for injuries as part of the crime. We wish to go forward today with sentencing.
<u>2:31:58 PM</u>	Judge Scott	Will go foward with sentencing today and can iron out
<u>2:33:37 PM</u>	Longhurst	Responds.
<u>2:34:46 PM</u>	Fredricksen	This will be a discovery motion - mtn to compel
<u>2:35:24 PM</u>	Judge Scott	Will leave restitutuion open for 60 days.
<u>2:38:05 PM</u>	Longhurst	Would like restitution hearing set
<u>2:38:27 PM</u>		1/8/15 @ 3pm for restitution hearing
<u>2:41:10 PM</u>	Longhurst	Sentencing arguments.
<u>2:45:48 PM</u>	Fredricksen	Sentencing arguments.
<u>2:54:40 PM</u>	Kralovec	Makes statement on own behalf
<u>2:56:44 PM</u>	Judge Scott	Sentences: Probation Agg term 5 = 1+4 JOC ; pay fees and costs. Standard terms of supervised probation. 92 days ACJ CTS 2 - all options subject to eligibility. Appeal rights. No fine.
<u>3:04:48 PM</u>	Kralovec	Understands.
<u>3:05:45 PM</u>	Fredricksen	Inquires all materials reviewed by court in consideration for sentencing.
<u>3:06:23 PM</u>	Judge Scott	Options are along the lines of work release.
<u>3:07:03 PM</u>		End of Case
<u>3:07:03 PM</u>		
<u>3:07:03 PM</u>		

NOV 18 2014

CHRISTOPHER D. RICH, Clerk
By BRIAN D. CHESS
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

THOMAS JOHN KRALOVEC,
DOI [REDACTED]
SSN [REDACTED]

Defendant.

Case No. CR-FE-2014-0001842

JUDGMENT OF CONVICTION,
SUSPENDED SENTENCE
AND ORDER OF PROBATION
AND COMMITMENT

On November 14, 2014, Jill Longhurst, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, and the defendant, THOMAS JOHN KRALOVEC, with his attorney, Eric Fredericksen, appeared before this Court for sentencing. The defendant was duly informed of the information filed against him for the crime of BATTERY ON A CORRECTIONAL OFFICER, JUDGE OR PROBATION OFFICER, FELONY, I.C. § 18-915(2), 903 committed on or about February 6, 2014, and the defendant having been found guilty of said crime by a jury thereto on October 8, 2014.

The defendant, and defendant's counsel, were then asked if they had any legal cause or reason to offer why judgment and sentence should not be pronounced against the defendant, and if the defendant, or defendant's counsel, wished to offer any evidence or to make a statement on behalf

of the defendant, or to present any information to the Court in mitigation of punishment; and the Court, having accepted such statements, and having found no legal cause or reason why judgment and sentence should not be pronounced against the defendant at this time; does render its judgment of conviction as follows, to-wit:

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the defendant is guilty of the crime of BATTERY ON A CORRECTIONAL OFFICER, JUDGE OR PROBATION OFFICER, FELONY, I.C. § 18-915(2), 903, and that he be sentenced pursuant to the Uniform Sentence Law of the State of Idaho, I.C. § 19-2513, to the custody of the State of Idaho Board of Correction for an aggregate term of five (5) years: with the first one (1) year of said term to be FIXED, and with the remaining four (4) years of said term to be INDETERMINATE, with such sentence to commence immediately.

Execution of such judgment is suspended and defendant, THOMAS JOHN KRALOVEC, is placed on probation for a period of five (5) years, under the following conditions, to wit:

A. That the probation is granted to and accepted by the probationer, subject to all its terms and conditions and with the understanding that the Court may at any time, in case of the violation of the terms of the probation, cause the probationer to be returned to the Court for the imposition of sentence as prescribed by law or any other punishment as the Court may see fit to hand down.

B. That the probationer shall be under the legal custody and control of the Director of Probation and Parole of the State of Idaho and the District Court with supervised probation and subject to the rules of probation as prescribed by the Board of Correction and the District Court.

C. That during said period of probation the said defendant shall not violate any law or ordinance of the United States or any city, state or county therein, wherein a fine or bond forfeiture of more than \$250.00 or a jail term could have been imposed as a penalty.

D. Special conditions, to wit:

1. Defendant shall pay the sums set out in this judgment for fines, fees, restitution, costs, etc., to the Ada County Clerk's Office in reasonable monthly installments as arranged through the probation officer.
2. Defendant shall serve 92 days in the Ada County Jail, with credit for 2 days already served, leaving a balance of 90 days to serve. Defendant shall have all options to serve jail time (excluding house arrest and community service), subject to eligibility determined by the Sheriff.
3. Defendant shall participate in any and all programs of rehabilitation treatment recommended by his probation officer, including but not limited to programs of mental health, substance abuse, criminal thinking errors, anger management and vocational rehabilitation as deemed necessary by the probation officer.
4. During the entire term of probation, the defendant shall maintain steady employment, be actively seeking employment or be enrolled as a full-time student, to the extent he is physically and mentally able to do so.
5. Defendant shall not purchase, carry or have in his possession any firearm(s) or other weapons.
6. Defendant shall not purchase, possess or consume any alcoholic beverages while on probation.
7. Defendant shall not purchase, possess or consume any drug or narcotic unless specifically prescribed by a medical doctor.
8. Defendant shall not frequent or work at any establishments where alcohol is the main source of income.
9. Defendant shall not associate with individuals specified by his probation officer.
10. Defendant agrees to tests of blood, breath, saliva or urine or other chemical tests for the detection of alcohol and/or drugs at the request of his probation officer, or any law enforcement officer, to be administered at defendant's own expense.
11. Defendant agrees to waive his Fourth Amendment rights applying to search and seizure as provided by the United States Constitution, and to submit to a search by his probation officer or any law enforcement officer of his person, residence, vehicle or other property upon request. Defendant shall not reside with any person who does not consent to such a search.
12. Defendant shall waive his Fifth Amendment rights to the extent that he must answer truthfully all questions of a probation officer reasonably related to compliance or non-

compliance with the conditions of probation.

13. Defendant shall waive his Sixth Amendment rights of confrontation in so far as the State may use reliable hearsay evidence at any probation violation hearing.

14. The defendant shall submit a DNA sample and right thumbprint impression to authorities pursuant to I.C. § 19-5506 within ten (10) days of this judgment.

E. That the probationer, if placed on probation to a destination outside the State of Idaho, or leaves the confines of the State of Idaho with or without permission of the director of probation and parole does hereby waive extradition to the State of Idaho and also agrees that the said probationer will not contest any effort by any state to return the probationer to the State of Idaho.

Pursuant to I.C. § 31-3201A(b) the defendant shall pay court costs in the amount of \$17.50; County Administrative Surcharge Fee in the amount of \$10.00 pursuant to I.C. § 31-4502; P.O.S.T. Academy fees in the amount of \$15.00 pursuant to I.C. § 31-3201B; ISTARS technology fee in the amount of \$10.00 pursuant to I.C. § 31-3201(5); \$75.00 reimbursement to the Victims Compensation Fund pursuant to I.C. § 72-1025; Peace Officer Temporary Disability Fund in the amount of \$3.00 pursuant to I.C. § 72-1105; Emergency Surcharge Fee in the amount of \$100 pursuant to I.C. § 31-3201H; and \$10.00 for the Victim Notification Fee (VINE) pursuant to I.C. §31-3204.

Defendant is to pay supervision of probation and parole costs in an amount not to exceed the maximum allowable by I.C. § 20-225.

The defendant shall pay an amount to be determined by the Department of Correction, not to exceed one hundred dollars (\$100), for the cost of conducting the pre-sentence investigation and preparing the pre-sentence investigation report. The amount will be determined by the Department and paid by the defendant in accordance with the provisions of I.C. § 19-2516.

This probation shall expire at midnight on November 13, 2019, unless otherwise ordered by

the Court.

IT IS FURTHER ORDERED that the Clerk deliver a certified copy of this Judgment and Commitment to the said Sheriff, which shall serve as the commitment of the defendant.

The probation agreement is to be hereto attached and by reference made a part hereof.

NOTICE OF RIGHT TO APPEAL

You, THOMAS JOHN KRALOVEC, are hereby notified that you have the right to appeal this order to the Idaho Supreme Court. Any notice of appeal must be filed within forty-two (42) days from the entry of this judgment.

You are further notified that you have the right to be represented by an attorney in any appeal, that if you cannot afford to retain an attorney, one may be appointed at public expense. Further, if you are a needy person, the costs of the appeal may be paid for by the State of Idaho. If you have questions about your appeal rights, you should consult your present lawyer.

IT IS SO ORDERED.

Dated this 14th day of November 2014.



Jason D. Scott
DISTRICT JUDGE

This is to certify that I have read or had read to me and fully understand and accept all the conditions, regulations and restrictions under which I am being granted probation. I will abide by and conform to them strictly and fully understand that my failure to do so may result in the revocation of my probation and commitment to the Board of Correction to serve the sentence originally imposed.

Probationer's Signature

Date of acceptance

WITNESSED:

Probation and Parole Officer
State of Idaho

CERTIFICATE OF MAILING

I hereby certify that on the 18th day of November 2014, I mailed (emailed) a true and correct copy of the within instrument to:

ADA COUNTY PROSECUTOR
VIA EMAIL

Eric D. Fredericksen
BRADY LAW CHARTERED
2537 W State St, Ste 200
Boise, ID 83702

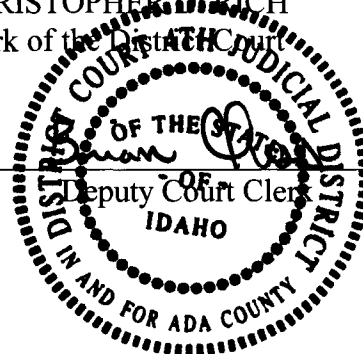
ADA COUNTY JAIL
VIA EMAIL

PROBATION AND PAROLE
VIA EMAIL

CENTRAL RECORDS
DEPARTMENT OF CORRECTION
ATTN: CCD PROBATION SENTENCING TEAM
VIA EMAIL

CHRISTOPHER D. RICH
Clerk of the District Court

By: _____



Ada County Mugshot - Prosecutor's Office



User: PRPICCAL

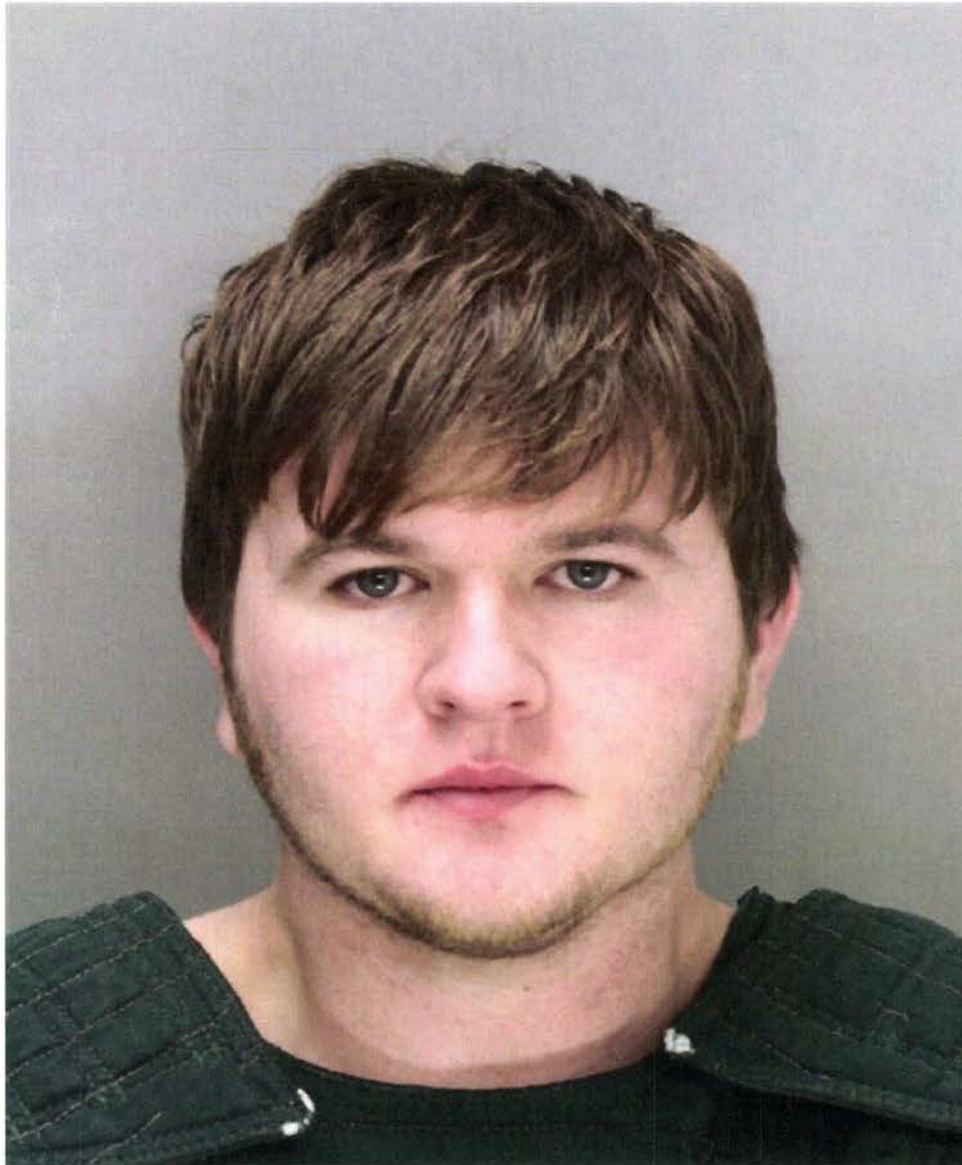


Photo Taken: 2014-02-07 06:41:07

Name: KRALOVEC, THOMAS JOHN

Case #: CR-FE-2014-0001842

LE Number: 1033218

DOB: [REDACTED]

SSN: [REDACTED]

Height: 510

Weight: 190

Drivers License Number:

Drivers License State:

Sex: M Race: W Eye Color: BRO Hair Color: BRO Facial Hair:

Marks:

Scars:

Tattoos:

000227

NO.

A.M.

FILED

P.M.

NOV 24 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

160
MO
1/8
3P

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant Thomas John Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842

Judge Jason D. Scott

**DEFENDANT'S RENEWED MOTION
TO COMPEL DISCOVERY**

COMES NOW, the above-named Defendant, Thomas John Kralovec, by and through his attorneys of record, Brady Law, Chartered, pursuant to Idaho Criminal Rule 16(f)(1) & (2) hereby files this *Renewed Motion to Compel Discovery* requested in Defendant's Specific Discovery Request.

Specifically, Defendant is requesting that the State and/or Officer Michaelson turn over all documents related to treatment received for Officer Michaelson's left shoulder. At trial, Officer Michaelson testified he has had recurrent problems with his left shoulder do to bursitis. Officer Michaelson's recurrent shoulder problems were so significant that it required he submit to at least three (3) steroid Cortisone injections to relieve discomfort. Following Officer Michaelson's surgery/surgeries, for what, according to the records available was a shoulder

DEFENDANT'S RENEWED MOTION TO COMPEL DISCOVERY - Page 1
 1424.0001

000228

sprain, Officer Michaelson has had no further problems with his shoulder bursitis. To date, Defendant has not received any medical records related to the surgery or surgeries Officer Michaelson has had on his shoulder, much less whether the surgery/ies was related to the actions of Defendant on the night in question.

Defendant respectfully requests that this Court provide him with all medical information related to Officer Michaelson's left shoulder for at least the last 15 years. To the extent there is any *Brady* information included therein, Defendant reserves his right to file a Motion for a New Trial.

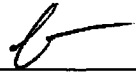
CERTIFICATE OF COMPLIANCE

Defendant's counsel has in good faith conferred or attempted to confer with Plaintiff's counsel in an effort to secure the disclosure without court action. Defendant's counsel has been unable to resolve the dispute with Plaintiff's counsel concerning the receipt of the discovery requested.

ORAL ARGUMENT IS REQUESTED.

DATED this 24th day of November, 2014.

BRADY LAW, CHARTERED

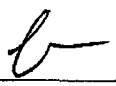
 Chip Giler for
By: Eric D. Fredericksen,
Attorneys for Defendant
Thomas John Kralovec

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 24th day of November, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Jill Longhurst
Deputy Prosecuting Attorney
Ada County Prosecuting Attorney's Office
200 W. Front Street, Room 3191
Boise, ID 83702
(Attorneys for Plaintiff)

<input checked="" type="checkbox"/>	U.S. Mail, Postage Prepaid
<input type="checkbox"/>	Express Mail
<input type="checkbox"/>	Hand Delivery
<input type="checkbox"/>	Facsimile Transmission
<input type="checkbox"/>	Federal Express
<input type="checkbox"/>	Electronic Mail

 Chip Giler for
Eric D. Fredericksen

NO. _____ FILED _____
A.M. _____ P.M. _____

NOV 26 2014

CHRISTOPHER D. RICH, Clerk
By AMY LANG
DEPUTY

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
Chip D. Giles, ISB #9135
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorney for Defendant Thomas J. Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842

Judge Jason D. Scott


**NOTICE OF HEARING ON
DEFENDANT'S RENEWED
MOTION TO COMPEL DISCOVERY**

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD

YOU, AND EACH OF YOU, PLEASE TAKE NOTICE that on the 8th day of December, 2014, at 3:30 p.m., or as soon thereafter as counsel may be heard, the undersigned will call up and present for disposition before the Honorable Jason D. Scott, Defendant's Renewed Motion to Compel Discovery.

DATED this 26th day of November, 2014.

BRADY LAW, CHARTERED

By:  Eric D. Fredericksen *Chip Giles for*
Attorney for Defendant

NOTICE OF HEARING ON DEFENDANT'S RENEWED MOTION TO COMPEL DISCOVERY - Page 1
1424.0001


000231

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of November, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Jill Longhurst
Deputy Prosecuting Attorney
Ada County Prosecuting Attorney's Office
200 W. Front Street, Room 3191
Boise, ID 83702
(Attorneys for Plaintiff)

☒ U.S. Mail, Postage Prepaid
☐ Express Mail
☐ Hand Delivery
☐ Facsimile Transmission
☐ Federal Express
☐ Electronic Mail


Eric D. Fredericksen

Chip Giles for

1600
Hr.
12/8
8:30

NO. _____
FILED _____
A.M. _____ P.M. 247

DEC 04 2014

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant/Appellant Thomas Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff/Respondent,

v.

THOMAS JOHN KRALOVEC,

Defendant/Appellant.

Case No. CR-FE-2014-0001842
Supreme Court Docket No. _____

Judge Jason Scott

NOTICE OF APPEAL

ORIGINAL

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO; and JILL LONGHURST, ADA COUNTY PROSECUTING ATTORNEY'S OFFICE; and, THE CLERK OF THE ABOVE-ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant appeals against the above-named Respondent to the Idaho Supreme Court from the Judgment of Conviction entered in the above-entitled action on the 18th day of November, 20014, the Honorable Jason D. Scott, presiding.

MD

2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to *Idaho Appellate Rule*, Rule 11(c)(1-10).

3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is/are:

- a. Did the district court err in imposing an excessive sentence?
- b. Did the district court err in denying pretrial motions and objection by Mr. Kralovec.

4. There is a portion of the record that is sealed. That portion of the record that is sealed is the Pre-Sentence Investigation Report (PSI).

5. **Reporter's Transcript.** The appellant requests the preparation of the **entire reporter's standard transcript** as defined in I.A.R. 25(c). The appellant also requests the preparation of the additional portions of the reporter's transcript:

- a. Hearing on Motion to Consolidate held on June 20, 2014 (Court Reporter Cromwell, est. pages 50);
- b. Hearing on pretrial motions held on September 4, 2014 (Court Reporter Cromwell, est. pages 50);
- c. Jury Trial held October 6 - 8, 2014 (Court Reporter Cromwell, est. pages less than 5000);
- d. Sentencing Hearing held on October 14, 2014.

6. **Clerk's Record.** The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2). The appellant requests the following documents to be included in the clerk's record, in addition to those automatically included under I.A.R. 28(b)(2):


- a. Any exhibits, including, but not limited to, letters or victim impact statements, addendums to the PSI or other items offered in trial or at sentencing hearing

7. I certify:

- a. That a copy of this Notice of Appeal has been served on the Court Reporter Cromwell, ;
- b. That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (*Idaho Code* §§ 31-3220, 31-3220A, *I.A.R.* 24(4));
- c. That there is no appellate filing fee since this is an appeal in a criminal case (*Idaho Code* §§ 31-3220, 31-3220A, *I.A.R.* 23(a)(8));
- d. That arrangements have been made with Ada County who will be responsible for paying for the reporter's transcript, as the client is indigent, *Idaho Code* §§ 31-3220, 31-3220A, *I.A.R.* 24(h);
- e. That service has been made upon all parties required to be served pursuant to *I.A.R.* 20.

DATED this 4th day of December, 2014.

BRADY LAW, CHARTERED



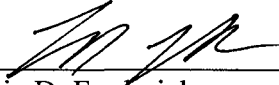
By: Eric D. Fredericksen
Attorney for Defendant/Appellant
Thomas Kralovec

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4th day of December, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Jill Longhurst	<input checked="" type="checkbox"/>	U.S. Mail, Postage Prepaid
Deputy Prosecuting Attorney	<input type="checkbox"/>	Express Mail
Ada County Prosecuting Attorney's Office	<input type="checkbox"/>	Hand Delivery
200 W. Front Street, Room 3191	<input type="checkbox"/>	Facsimile Transmission
Boise, ID 83702	<input type="checkbox"/>	Federal Express
<i>(Attorneys for Plaintiff)</i>	<input type="checkbox"/>	Electronic Mail

Dianne Cromwell	<input checked="" type="checkbox"/>	U.S. Mail, Postage Prepaid
Court Reporter	<input type="checkbox"/>	Express Mail
Ada County Courthouse	<input type="checkbox"/>	Hand Delivery
200 W. Front Street	<input type="checkbox"/>	Facsimile Transmission
Boise, ID 83702	<input type="checkbox"/>	Federal Express
	<input type="checkbox"/>	Electronic Mail



Eric D. Fredericksen

NO. _____ FILED _____ 247
A.M. _____ P.M. _____

DEC 04 2014

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant/Appellant Thomas Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff/Respondent,

v.

THOMAS JOHN KRALOVEC,

Defendant/Appellant.

Case No. CR-FE-2014-0001842

Judge Jason D. Scott

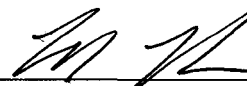
**MOTION TO WITHDRAW AND
APPOINT THE STATE APPELLATE
PUBLIC DEFENDER AND WAIVER OF
FEES AND COST OF TRANSCRIPT**

ORIGINAL

COMES NOW, the above named Defendant, by and through his attorney of record, and pursuant to Rule 44.1, *Idaho Criminal Rules*, hereby moves this Court for an Order granting Brady Law, Chartered leave to withdraw as attorney of record for Thomas Kralovec, the above named Defendant and appointing the State Appellate Public Defender. Brady Law, Chartered shall continue to represent Mr. Kralovec for all proceedings in the district court. Defendant moves for a waiver of fees and cost of transcript in this matter. This motion is based upon the affidavits filed herewith.

DATED this 4th day of December, 2014.

BRADY LAW, CHARTERED


By: Eric D. Fredericksen
Attorney for Thomas Kralovec

**MOTION TO WITHDRAW AND APPOINT THE STATE APPELLATE PUBLIC DEFENDER AND
WAIVER OF FEES AND COST OF TRANSCRIPT - Page 1**

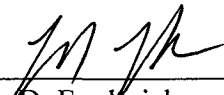
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4th day of December, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Jill Longhurst	<input checked="" type="checkbox"/>	U.S. Mail, Postage Prepaid
Deputy Prosecuting Attorney	<input type="checkbox"/>	Express Mail
Ada County Prosecuting Attorney's Office	<input type="checkbox"/>	Hand Delivery
200 W. Front Street, Room 3191	<input type="checkbox"/>	Facsimile Transmission
Boise, ID 83702	<input type="checkbox"/>	Federal Express
(Attorneys for Plaintiff)	<input type="checkbox"/>	Electronic Mail



Eric D. Fredericksen

DEC 04 2014

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant/Appellant Thomas Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff/Respondent,

v.

THOMAS JOHN KRALOVEC,

Defendant/Appellant.

Case No. CR-FE-2014-0001842

Judge Jason D. Scott

**AFFIDAVIT OF ERIC D.
FREDERICKSEN IN SUPPORT OF
MOTION TO WITHDRAW AND
APPOINT THE STATE APPELLATE
PUBLIC DEFENDER AND WAIVER OF
FEES AND COST OF TRANSCRIPT**

STATE OF IDAHO)
: ss.
County of Ada)

ORIGINAL

Eric D. Fredericksen, being first duly sworn upon oath, deposes and says that:

1. I am the attorney for the Defendant in the above-entitled action. The information contained herein is based upon personal knowledge, and is true and correct to the best of my knowledge and belief.

2. Defendant is indigent, currently incarcerated, and does not have sufficient financial resources to meet his financial obligations to this firm, making continued representation impossible.

**AFFIDAVIT OF ERIC D. FREDERICKSEN IN SUPPORT OF MOTION TO WITHDRAW AND
APPOINT THE STATE APPELLATE PUBLIC DEFENDER AND WAIVER OF FEES AND COST OF
TRANSCRIPT - Page 1**

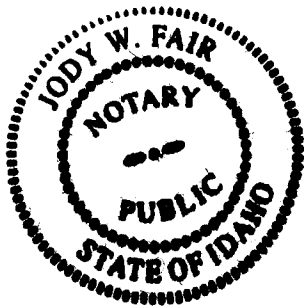
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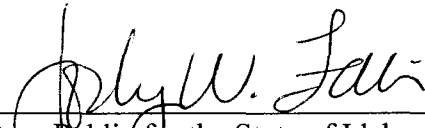
000239

3. A statement of Mr. Kralovec's indigent status is attached hereto.
 4. Therefore, your affiant requests the Court grant his Motion to Withdraw and Appoint the State Appellate Public Defender and Waiver of Fees and Cost of Transcript.
 5. Your affiant will continue to represent Mr. Kralovec for all matters before the district court.5
 6. Further your affiant sayeth naught.
- DATED this 4th day of December, 2014.


Eric D. Fredericksen

SUBSCRIBED AND SWORN to before me this 4th day of December, 2014.



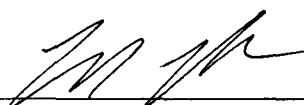

Notary Public for the State of Idaho
Residing at Meridian, Ada County, Idaho
My Commission Expires: 12/10/2018

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4th day of December, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Jill Longhurst
Deputy Prosecuting Attorney
Ada County Prosecuting Attorney's Office
200 W. Front Street, Room 3191
Boise, ID 83702
(Attorneys for Plaintiff)

<input checked="" type="checkbox"/>	U.S. Mail, Postage Prepaid
<input type="checkbox"/>	Express Mail
<input type="checkbox"/>	Hand Delivery
<input type="checkbox"/>	Facsimile Transmission
<input type="checkbox"/>	Federal Express
<input type="checkbox"/>	Electronic Mail



Eric D. Fredericksen

1625

Bond Information Sheet

**If you would like the assistance of a Court-Appointed Attorney,
YOU MUST COMPLETE THIS FORM - TRUTHFULLY!**

(this will not be seen by the Prosecuting Attorney or the Judge)

Last Name: Kralover First Name: Thomas Middle: T Male/Female: M

Birthdate: [REDACTED] Age: 26 SS #: [REDACTED] Phone: [REDACTED]

Address: [REDACTED] City/State: Boise ID ZIP: 83703

How long have you lived in the Boise area? 23 yrs. How long have you lived in Idaho? 23 yrs.

With whom do you live? Parents (Margaret & Phil) Marital Status: Single Married Divorced Other: _____

Do you have family in the area? Yes No If yes, who? parents, Brothers, aunt, uncle, & grandparents

Do you have children? Yes No If yes, how many? X Do they live in the Boise Area? Yes No

Are you employed? Yes No If yes, Where? Franz Wette How long? 1.75 yrs.

Do you support anyone other than yourself (children/spouse/parents)? Who? NO

Do you own a home or property in the area? NO

Have you ever been convicted of a crime - ANY crime/ANYwhere? Yes No If yes, list convictions and dates:

2010 DUI, Ada County 2014 public intoxication - 2014 Battery upon law officer Ada County

2012 - possession of paraphernalia canyon county

Are you on Probation or Parole? Yes No If yes, is it Unsupervised or Supervised? (circle one)

Do you have a criminal history in Juvenile Court? Yes No

Have you ever missed a court date for any reason? Yes No How many times? 1

Will have you money to post bond? Yes No If yes, how much can you afford? When I lived in Nevada I could not afford to make it back for court, but when I moved back, I immediately turned myself in.

What else would you like your attorney to know? _____

STOP - DO NOT WRITE BELOW THIS LINE!

Date: ____/____/____ Arraignment Judge: _____ P.D. _____

Case No.	Charge(s)	Bond Amount	Plea/Sent	Court Dates

APPLICATION FOR PUBLIC DEFENDER

Name Thomas John Kealover Phone (208) 921-6070

Address [REDACTED]
(Street) (City) (State) (Zip)

Social Security No. (last 4 digits only) XXX-XX-[REDACTED] Date of Birth [REDACTED]

Have you had a public defender before? ☒ Yes ☐ No

If yes, when 2012 or 2013 canyon county

Were you able to make bond? ☒ Yes ☐ No

Who posted your bond? parents

Are you employed? ☒ Yes ☐ No

If yes, where? Frank's wife

How long there? 1.75 yrs

What is your monthly take-home pay? \$ During the working months 1400

Do you have income from any other source? ☐ Yes ☒ No

What source? [REDACTED]

How much? \$ [REDACTED]

Are you married? ☐ Yes ☒ No

If yes, is your spouse employed? ☐ Yes ☐ No

Where? [REDACTED]

Spouse's monthly take-home pay? \$ [REDACTED]

Are you supporting any children? ☐ Yes ☒ No

If yes, how many? 3

Do you pay child support through the courts? ☐ Yes ☒ No

If yes, how much? \$ [REDACTED]

Are you current on your child support? ☐ Yes ☐ No

Do you own land and/or a house? ☐ Yes ☒ No

What is it worth? \$ [REDACTED]

How much do you owe on it? \$ [REDACTED]

Do you have any cash or financial assets available? ☐ Yes ☒ No

If yes, how much? \$ [REDACTED]

Do you make monthly installment payments? ☒ Yes ☐ No

If yes, how much? \$ Credit cards, payday loans, 1000

For what items? Credit cards, payday loans, student loans, Court fines, attorney fees, & treatment through the Walker center.

What is the total value of all of your property? \$ [REDACTED]

Will anyone assist you financially? ☐ Yes ☒ No

Name [REDACTED] Phone ([REDACTED])

Address [REDACTED]

If you are under legal age, who is your parent or guardian?

Name [REDACTED] Phone ([REDACTED])

Address [REDACTED]

I am requesting that a lawyer be appointed to represent me, I understand that I may be required to reimburse the public defender at the end of my case to the best of my ability, and I swear under penalty of perjury that the answers above are true and correct to the best of my knowledge.

11/23/14
Date

Thomas J Kealover
Applicant's Signature

RECEIVED
DEC 04 2014
ADA COUNTY CLERK

NO. 1145 FILED PM.
DEC 08 2014
CHRISTOPHER D. RICH, CLERK

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant/Appellant Thomas Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff/Respondent,

v.

THOMAS JOHN KRALOVEC,

Defendant/Appellant.

Case No. CR-FE-2014-0001842

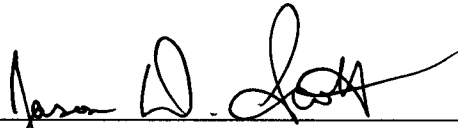
Judge Jason D. Scott

**ORDER GRANTING LEAVE TO
WITHDRAW AND APPOINT THE
STATE APPELLATE PUBLIC
DEFENDER AND WAIVER OF FEES
AND COST OF TRANSCRIPT**

This Court having reviewed Defendant's Motion to Withdraw and Appoint the State Appellate Public Defender and Waiver of Fees and Cost of Transcript, and for other good cause shown;

IT IS HEREBY ORDERED that the Motion to Withdraw and Appoint the State Appellate Public Defender and Waiver of Fees and Cost of Transcript is GRANTED.

DATED this 5th day of December 2014.


Honorable Jason D. Scott
District Judge

**ORDER GRANTING LEAVE TO WITHDRAW AND APPOINT THE STATE APPELLATE PUBLIC
DEFENDER AND WAIVER OF FEES AND COST OF TRANSCRIPT - Page 1**
1424.0001

000244

CLERK'S CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8 day of December, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Idaho Supreme Court
P.O. Box 83720
Boise, ID 83720

☒ U.S. Mail, Postage Prepaid
☐ Express Mail
☐ Hand Delivery
☐ Facsimile Transmission
☐ Federal Express
☐ Electronic Mail

Jill Longhurst
Deputy Prosecuting Attorney
Ada County Prosecuting Attorney's Office
200 W. Front Street, Room 3191
Boise, ID 83702
(Attorneys for Plaintiff)

☐ U.S. Mail, Postage Prepaid
☒ Express Mail
☐ Hand Delivery
☐ Facsimile Transmission
☐ Federal Express
☐ Electronic Mail

BRADY LAW, CHARTERED
Eric D. Fredericksen
2537 W. State Street, Suite 200
Boise, ID 83702

☒ U.S. Mail, Postage Prepaid
☐ Express Mail
☐ Hand Delivery
☐ Facsimile Transmission
☐ Federal Express
☐ Electronic Mail

State Appellate Public Defender's Office
3050 N. Lakeharbor Lane, Suite 100
Boise, ID 83703

☒ U.S. Mail, Postage Prepaid
☐ Express Mail
☐ Hand Delivery
☐ Facsimile Transmission
☐ Federal Express
☐ Electronic Mail



Time	Speaker	Note
<u>3:04:56 PM</u>		
<u>3:04:56 PM</u>		
<u>3:04:56 PM</u>		
<u>3:04:56 PM</u>		
<u>3:30:57 PM</u>		CRFE14.1842 THOMAS KRALOVEC
<u>3:31:16 PM</u>		Motion to Compel Discovery
<u>3:31:24 PM</u>		Present: Eric Fredricksen, Thomas Kralovec, Jill Longhurst
<u>3:31:54 PM</u>	Fredricksen	Argues motion
<u>3:37:36 PM</u>	Longhurst	Responds. Objects.
<u>3:49:23 PM</u>	Fredricksen	Reply comments.
<u>3:52:37 PM</u>	Judge Scott	Grants motion. Will require the production of medical records pertained to Deputy left shoulder only and to go back 10 years. Those records can be produced and redacted to remove personal information and defendant is barred from using such personal info. As such, it appears we will need to reschedule restitution hearing.
<u>3:58:58 PM</u>	Fredricksen	Agree we will need to reschedule restitution hearing. Will waive any delays in having the restitution.
<u>3:59:52 PM</u>	Longhurst	Asks for clarification as to what is required.
<u>4:01:19 PM</u>	Judge Scott	Responds. State to work with the officer and Worker's Comp. carrier to gather the info.
<u>4:11:17 PM</u>		Will use the Jan. 8th date as a status
<u>4:21:34 PM</u>		End of Case
<u>4:21:34 PM</u>		
<u>4:21:34 PM</u>		
<u>4:21:34 PM</u>		
<u>4:21:34 PM</u>		

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11/8
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NO. _____ FILED _____
A.M. _____ P.M. 4/2/8

DEC - 9 2014

CHRISTOPHER D. RICH, Clerk
By SARA WRIGHT
DEPUTY

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

Attorneys for Defendant Thomas Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842

Judge Jason D. Scott

**MOTION TO AMEND JUDGMENT
BASED UPON CHANGED
CIRCUMSTANCES**

ORIGINAL

COMES NOW, the above named Defendant, by and through his attorney of record, hereby moves this Court for an order amending Mr. Kralovec's Judgment of Conviction, Suspended Sentence and Order of Probation and Commitment based on his current custodial status at the Ada County Jail.

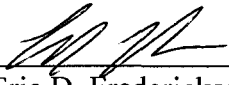
At sentencing, this Court imposed 90 days of jail time with options for Mr. Kralovec to be able to participate in work release to continue earning money to pay any restitution imposed in this case. Due to the charge that Mr. Kralovec was convicted of, Battery on Certain Personnel, Mr. Kralovec is classified as a Level 1 Offender, the highest classification in the jail. As a result, Mr. Kralovec spends 23 hours in a cell and is ineligible for work release or any treatment in the facility. Mr. Kralovec will not be eligible for work release at any point during the 90 day jail sentence. Accordingly, Mr. Kralovec respectfully requests that this Court suspend 60 of the 90 days of jail time so that Mr. Kralovec has the opportunity to begin his probation, obtain a job, participate in treatment, and work on becoming financially stable to pay any restitution this Court orders in the case.

MOTION TO AMEND JUDGMENT BASED UPON CHANGED CIRCUMSTANCES - Page 1
1424.0001

000247

DATED this 9th day of December, 2014.

BRADY LAW, CHARTERED



By: Eric D. Fredericksen
Attorney for Defendant
Thomas Kralovec

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 9th day of December, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Jill Longhurst
Deputy Prosecuting Attorney
Ada County Prosecuting Attorney's Office
200 W. Front Street, Room 3191
Boise, ID 83702
Fax: (208) 287-7709
(Attorneys for Plaintiff)

<input checked="" type="checkbox"/>	U.S. Mail, Postage Prepaid
<input type="checkbox"/>	Express Mail
<input type="checkbox"/>	Hand Delivery
<input checked="" type="checkbox"/>	Facsimile Transmission
<input type="checkbox"/>	Federal Express
<input type="checkbox"/>	Electronic Mail


Eric D. Fredericksen

BRADY LAW, CHARTERED
Michael G. Brady, ISB #1293
Eric D. Fredericksen, ISB #6555
Chip D. Giles, ISB #9135
St. Mary's Crossing
2537 W. State Street, Suite 200
Boise, ID 83702
TELEPHONE: (208) 345-8400
FACSIMILE: (208) 322-4486

NO. _____
A.M. _____

FILED
P.M.

DEC - 9 2014

CHRISTOPHER D. RICH, Clerk
By SARA WRIGHT
DEPUTY

Attorney for Defendant Thomas J. Kralovec

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

v.

THOMAS JOHN KRALOVEC,

Defendant.

Case No. CR-FE-2014-0001842

Judge Jason D. Scott

NOTICE OF HEARING ON
DEFENDANT'S MOTION TO
AMEND JUDGMENT BASED
UPON CHANGED CIRCUMSTANCES

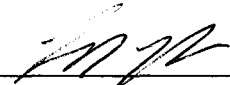
ORIGINAL

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD

YOU, AND EACH OF YOU, PLEASE TAKE NOTICE that on the 8th day of January, 2015, at 3:00 p.m., or as soon thereafter as counsel may be heard, the undersigned will call up and present for disposition before the Honorable Jason D. Scott, Defendant's Motion to Amend Judgment Based Upon Changed Circumstances.

DATED this 9th day of December, 2014.

BRADY LAW, CHARTERED


By: Eric D. Fredericksen
Attorney for Defendant

NOTICE OF HEARING ON DEFENDANT'S MOTION TO AMEND JUDGMENT BASED UPON
CHANGED CIRCUMSTANCES - Page 1
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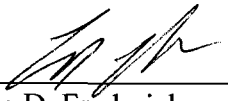
000249

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 27th day of December, 2014, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

Jill Longhurst
Deputy Prosecuting Attorney
Ada County Prosecuting Attorney's Office
200 W. Front Street, Room 3191
Boise, ID 83702
Fax: (208) 287-7709
(Attorneys for Plaintiff)

<input checked="" type="checkbox"/>	U.S. Mail, Postage Prepaid
<input type="checkbox"/>	Express Mail
<input type="checkbox"/>	Hand Delivery
<input checked="" type="checkbox"/>	Facsimile Transmission
<input type="checkbox"/>	Federal Express
<input type="checkbox"/>	Electronic Mail



Eric D. Fredericksen

DEC 11 2014

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

160
Status
1/8
3:00
JAN M. BENNETTS
Ada County Prosecuting Attorney

Jill Longhurst
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

THOMAS JOHN KRALOVEC,

Defendant.

)
) **Case No. CR-FE-2014-0001842**
)
)

) **STATE'S OBJECTION TO**
) **DEFENDANT'S REQUEST TO**
) **"AMEND JUDGMENT BASED ON**
) **CHANGED CIRCUMSTANCES"**
)
)
)
)

The State hereby objects to the Defendant's motion to reduce his jail sentence so that he can "begin his probation." The defendant is already on probation and a reduction of his jail sentence is inappropriate under these circumstances.

It appears that the defendant is claiming that he is somehow entitled to eligibility for certain jail programs and the failure to be permitted into these programs justifies a lesser sentence. Any and all programs offered by the Ada County Jail and the methods of inmate classification are matters left to the discretion of the Ada County Sheriff and the defendant's classification and disqualification for various programs is not a matter for litigation by the defendant and review by the court. The defendant's classification level is a jail matter and is

**STATE'S OBJECTION TO DEFENDANT'S REQUEST TO "AMEND JUDGMENT
BASED ON CHANGED CIRCUMSTANCES" (KRALOVAC)** Page 1 of 3

000251

based on many factors and on his own conduct and crime. He is not entitled to serve his sentence in a particular way. Defendant's ineligibility for various programs is not a justification to reduce his sentence.

Moreover, the defendant's claim that he should be entitled to work release privileges so that he can earn money toward restitution is unfounded. The defendant has vigorously objected to restitution orders and has not proffered any funds toward the injuries sustained by the jail deputy in this case. There is no reason to believe that he would do so now even if he was qualified to participate in the program through the Ada County Jail. The defendant was living with his parents at the time of the crime and continues to live with them. His "financial stability" to maybe pay restitution in the future is not as much at issue as is his dissatisfaction with being required to serve a jail sentence.

Defendant Kralovac has been convicted of committing a serious felony offense and serving 90 days of jail time at the Ada County Jail is not excessive nor is it an unfair consequence for his criminal conduct; accordingly, the State believes that a sentence reduction is inappropriate.

RESPECTFULLY SUBMITTED this 10th day of December 2014.

JAN M. BENNETTS
Ada County Prosecuting Attorney

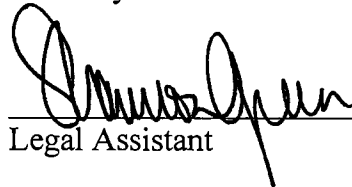
Jill Longhurst
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of December 2014, I caused to be served, a true and correct copy of the foregoing Notice of Hearing upon the individual named below in the manner noted:

Eric Fredericksen
2537 W. State St., Suite 200
Boise, ID 83702

- ☒ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney at the fax number:



Legal Assistant

ORIGINAL

SARA B. THOMAS
State Appellate Public Defender
I.S.B. #5867

ERIK R. LEHTINEN
Chief, Appellate Unit
I.S.B. #6247
3050 N. Lake Harbor Lane, Suite 100
Boise, ID 83703
(208) 334-2712

NO. _____
A.M. _____ FILED P.M. 3:28

DEC 29 2014

CHRISTOPHER D. RICH, Clerk
By KELLE WEGENER
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR ADA COUNTY

STATE OF IDAHO,

Plaintiff-Respondent,

v.

THOMAS JOHN KRALOVEC,

Defendant-Appellant.

CASE NO. CR 2014-1842

S.C. DOCKET NO. _____

AMENDED
NOTICE OF APPEAL

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND THE PARTY'S ATTORNEYS, GREG BOWER, ADA COUNTY PROSECUTOR, 200 WEST FRONT STREET 3RD FLOOR, BOISE, ID, 83702, AND THE CLERK OF THE ABOVE-ENTITLED COURT:

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant appeals against the above-named respondent to the Idaho Supreme Court from the Judgment of Conviction, Suspended Sentence and Order of Probation and Commitment entered in the above-entitled action on the 18th day of November, 2014, the Honorable Jason D. Scott, presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Idaho Appellate Rule (I.A.R.) 11(c)(1-10).

3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is/are:

(a) Did the district court err in denying pretrial motions and objection by Mr. Kralovec?

(b) Did the district court err in imposing an excessive sentence?

4. There is a portion of the record that is sealed. That portion of the record that is sealed is the Pre-Sentence Investigation Report (PSI).

5. **Reporter's Transcript.** The appellant requests the preparation of the **entire reporter's standard transcript** as defined in I.A.R. 25(c). The appellant also requests the preparation of the additional portions of the reporter's transcript:

(a) Motion to Consolidate Hearing held June 20, 2014 (Court Reporter: Diane Cromwell, estimation of 50 pages);

(b) Hearing on pretrial motions held September 4, 2014 (Court Reporter: Diane Cromwell, estimation of 50 pages);

(c) Jury Trial held October 6-8, 2014, to include all arguments on any motions or objections, the voir dire, opening statements, closing arguments, jury instruction conferences, reading of the jury instructions, any hearings regarding questions from the jury during deliberations, return of the verdict, and any polling of the jurors (Court Reporter: Diane Cromwell, estimation of less than 5000 pages); and

- (j) Any exhibits, including but not limited to letters or victim impact statements, addendums to the PSI or other items offered at sentencing hearing. Except that any pictures or depictions of child pornography necessary to the appeal need not be sent, but may be sought later by motion to the Idaho Supreme Court.

7. I certify:

- (a) That a copy of this Amended Notice of Appeal has been served on the Court Reporter, Diane Cromwell;
- (b) That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e));
- (c) That there is no appellate filing fee since this is an appeal in a criminal case (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 23(a)(8));
- (d) That arrangements have been made with Ada County who will be responsible for paying for the reporter's transcript, as the client is indigent, I.C. §§ 31-3220, 31-3220A, I.A.R. 24(e); and
- (e) That service has been made upon all parties required to be served pursuant to I.A.R. 20.

DATED this 29th day of December, 2014.


ERIK R. LEHTINEN
Chief, Appellate Unit

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I have this 29th day of December, 2014, caused a true and correct copy of the attached AMENDED NOTICE OF APPEAL to be placed in the United States mail, postage prepaid, addressed to:

DIANE CROMWELL
COURT REPORTER
TUCKER & ASSOCIATES
605 W FORT STREET
BOISE ID 83702

GREG BOWER
ADA COUNTY PROSECUTOR'S OFFICE
ADA COUNTY PROSECUTOR
200 WEST FRONT STREET 3RD FLOOR
BOISE ID 83702
STATEHOUSE MAIL

KENNETH K JORGENSEN
DEPUTY ATTORNEY GENERAL
CRIMINAL DIVISION
P.O. BOX 83720
BOISE ID 83720-0010
Hand delivered to Attorney General's mailbox at Supreme Court


CINTHYA R. HERRERA
Administrative Assistant

ERL/tmf/crh

Time	Speake	Note
<u>3:31:13 PM</u>	Judge	calls CR-FE-2014-0001842 - State of Idaho vs. Thomas John Kralovec
<u>3:31:23 PM</u>	counsel	Longhurst/Fredericksen prsent
<u>3:31:27 PM</u>	Def	present in custody
<u>3:31:33 PM</u>	Judge	review restitution and Motion
<u>3:32:02 PM</u>	Frederic ksen	comments onthe restitution to reset
<u>3:32:56 PM</u>	Judge	new date
<u>3:33:21 PM</u>	State Attorney	in about a month
<u>3:33:37 PM</u>	Judge	set a status on a regular Friday calendar
<u>3:34:13 PM</u>	Judge	will set 2/6 @ 10 am Status.
<u>3:34:56 PM</u>	Judge	def motion to amned judgment
<u>3:35:34 PM</u>	Frederic ksen	argues
<u>3:36:27 PM</u>	State Attorney	argues
<u>3:37:24 PM</u>	Judge	ruling denied
<u>3:39:34 PM</u>	Adjourn.	
<u>3:39:34 PM</u>		

Time	Speaker	Note
11:26:14 AM		
11:26:14 AM		
11:26:14 AM		
11:26:20 AM		ST v THOMAS KRALOVEC CRFE14-01842 STATUS (Fredricksen)PROB
11:26:22 AM		Counsel: Longhurst/Fredricksen
11:26:48 AM	Fredricksen	We have recd all medial records. We ask setting this for rest. hearing. No witnesses, just argument. Only arguing amounts previously submitted to court. First part of March
11:27:35 AM	Longhurst	Clarifies.
11:28:25 AM	Judge Scott	3/5/15 @ 3pm
11:29:27 AM		End of Case
11:29:27 AM		
11:29:27 AM		
11:29:27 AM		

Time	Speaker	Note
<u>3:24:48 PM</u>		CRFE14-001842 THOMAS KRALOVEC
<u>3:24:57 PM</u>	Judge Scott	Calls case for motion for restitution
<u>3:25:12 PM</u>		Present: Jill Longhurst, Eric Fredricksen
<u>3:26:21 PM</u>	Longhurst	Moves to have marked and admitted State's Ex 1 & 2
<u>3:26:34 PM</u>	Fredrickse n	Would like to question the witness about the exhibits
<u>3:27:59 PM</u>	Longhurst	I thought we had an agreement
<u>3:28:11 PM</u>	Fredrickse n	Would like to take a minute off the record to discuss with
<u>3:28:24 PM</u>	Judge Scott	Will take a brief recess while counsel discusses
<u>3:28:37 PM</u>	Judge Scott	Resumes.
<u>3:35:29 PM</u>	Fredrick	I have no objection to the Exs being admitted. Will just argue
<u>3:35:50 PM</u>	Judge Scott	Admits Ex 1 & 2.
<u>3:36:05 PM</u>	Longhurst	Argues motion.
<u>3:49:17 PM</u>	Judge Scott	Inquires - who will be compensated?
<u>3:49:29 PM</u>	Longhurst	Responds.
<u>3:49:42 PM</u>	Fredrickse n	Responds.
<u>3:50:52 PM</u>		Asks court to review video.
<u>3:52:12 PM</u>	Longhurst	Objects. Misrepresentation. Inappropriate to say this happened at another time. This is not supported by evidence.
<u>3:52:47 PM</u>	Fredrickse n	Responds.
<u>3:53:51 PM</u>	Judge Scott	
<u>3:54:28 PM</u>	Fredrickse n	Continues. Submits pages 4-7 of state's summary of restitution charges.
<u>3:55:53 PM</u>	Longhurst	No objection
<u>3:57:42 PM</u>	Judge Scott	Admits Def. A
<u>3:59:25 PM</u>	Longhurst	Reply comments.
<u>4:01:40 PM</u>	Judge Scott	Will take the motion under advisement. Before that happens, I will view the video. If there are any other portions of the trial record counsel thinks I need to review, please advise.
<u>4:02:15 PM</u>	Fredrickse n	Deputy Ambrosic and Deputy Michales
<u>4:02:30 PM</u>	Longhurst	Deputy that testified first and all the still exhibits.

<u>4:03:05 PM</u>	Fredrickse n	We ask the restitution be stayed pending outcome of the appeal.
<u>4:04:51 PM</u>	Longhurst	Responds. Objects.
<u>4:05:47 PM</u>	Fredrickse n	Final comments.
<u>4:06:07 PM</u>	Judge Scott	Will take that motion under advisement as well.
<u>4:06:30 PM</u>		Will be in recess.
<u>4:06:50 PM</u>		End of Case
<u>4:06:50 PM</u>		
<u>4:06:50 PM</u>		
<u>4:06:51 PM</u>		
<u>4:06:51 PM</u>		

160
200 W FRONT ST RM 1190
BOISE, IDAHO 83702
(208) 287-6900

FILED E February 13, 2015 at 12:15 PM
CHRISTOPHER D. RICH, CLERK OF THE COURT
BY: Kimberly Eastman
Deputy Clerk

FOURTH JUDICIAL DISTRICT COURT, STATE OF IDAHO
IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO)
Plaintiff,) **Case No: CR-FE-2014-0001842**
vs.)
Thomas John Kralovec) **NOTICE OF STATE**
5500 W Lockport Dr) **INCOME TAX WITHHOLDING**
Boise, ID 83703) **AND DIVERSION OF FUNDS**
Defendant.) **TO THE ABOVE COURT TO PAY**
DOB: 11/3/1988) **A DELINQUENT DEBT**

To: Thomas John Kralovec

YOU ARE HEREBY NOTIFIED that the Idaho State Tax Commission, in compliance with I.C. § 1-1624, has withheld your Idaho State Income Tax refund or a portion of your Idaho State Income Tax refund in the amount of the debt, or a portion thereof, owed to the court on this case and any other case(s) which are delinquent. Amount intercepted: \$240.50

In the event that the debt owed to the court is greater than the amount of the tax return, your entire tax return has been diverted to pay the court debt.

YOU ARE FURTHER NOTIFIED that if you are the taxpayer obligor in this matter, you may file a written **Request for Administrative Waiver** referencing the above case number to the above identified court within 21 days of the mailing of this notification (not counting Saturday, Sunday or a state holiday as the twenty-first day). This form can be found on-line at **adacounty.id.gov/court-assistance-office**. However, no issues or claims previously decided in a court order or judgment, or admitted or agreed to shall be considered in connection with a request for an Administrative Waiver.

YOU ARE FURTHER NOTIFIED that if you filed a joint return with the taxpayer obligor in this matter but are not specified to be the obligor in the judgment or agreement creating the debt owed to the court, you may file a written **Objection** within the time limits specified above.

If you have questions about this case, please contact the court listed in this document.
(Ref. Sheet 2/11/15)

Date: Friday, February 13, 2015

The Idaho State Judiciary

TO: CLERK OF THE COURT
IDAHO SUPREME COURT
451 WEST STATE STREET
BOISE, IDAHO 83702

NO.
A.M.
FILED
P.M. 2:54

APR 07 2015
CHRISTOPHER D. RICH, Clerk
By KELLE WEGENER
DEPUTY

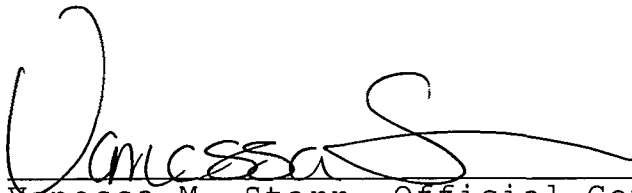
STATE OF IDAHO,)
)
Plaintiff-Respondent,) Supreme Court No. 42760
vs.) Case No. CRFE-14-1842
)
THOMAS KRALOVEC,)
)
Defendant-Appellant.)
_____)

NOTICE OF TRANSCRIPT LODGED

Notice is hereby given that on April 6, 2015, I lodged a transcript 517 pages of length for the above-referenced appeal with the District Court Clerk of the **County of Ada** in the Fourth Judicial District.

HEARING DATES INCLUDED:

Trial held Oct. 6th, 7th & 8th, 2014



Vanessa M. Starr, Official Court Reporter

April 6, 2015
Date

NO. _____
A.M. _____
FILED P.M. 2:54

APR 07 2015
CHRISTOPHER D. RICH, Clerk
By KELLE WEGENER
DEPUTY

Stephen W. Kenyon
Clerk of Supreme Court
451 W State Street
Boise, Idaho 83720

In re: State of Idaho v. Thomas J. Kralovec, Docket No. 42760

Notice is hereby given that on Wednesday, March 11, 2015, I lodged a transcript of 120 pages in length for the above-referenced appeal with the district court clerk of Ada County in the Fourth Judicial District.

The following files were lodged:

Proceeding 06/20/2014, Proceeding 09/04/2014 and Proceeding
11/14/2014

David Cromwell
Tucker & Associates

cc: sctfilings@idcourts.net
PDF format of completed files emailed to Supreme Court

kw

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

THOMAS JOHN KRALOVEC,

Defendant-Appellant.

Supreme Court Case No. 42760

CERTIFICATE OF EXHIBITS

I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho in and for the County of Ada, do hereby certify:

That the attached list of exhibits is a true and accurate copy of the exhibits being forwarded to the Supreme Court on Appeal.

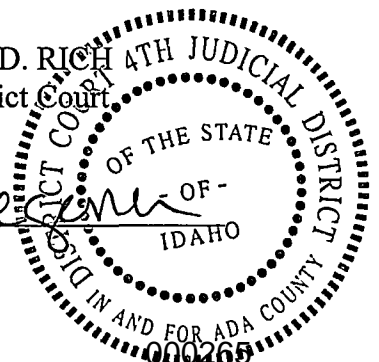
I FURTHER CERTIFY, that the following documents will be submitted as CONFIDENTIAL EXHIBITS to the Record:

1. Presentence Investigation Report.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 7th day of April, 2015.

CHRISTOPHER D. RICH
Clerk of the District Court

By KW
Deputy Clerk



CERTIFICATE OF EXHIBITS

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

Judge Renae Hoff /Ric Nelson
District Judge Clerk

10/06/14

STATE OF IDAHO
Plaintiff,

VS.

THOMAS KRALOVEC
Defendant,

EXHIBIT LIST

Case No.
CR-FE-14-01842

(JURY TRIAL)

Plaintiff's Counsel:
Jill Longhurst

Defendant's Counsel:
Eric Frederickson

BY	NO.	DESCRIPTION	STATUS	DATE
St	1	Jail Video DVD	Adm	10/06/14
St	1.1 – 1.7	Photo's	Adm	10/06/14
St	1.8-1.12	Photo	Adm	10/07/14
St	1.13- 1.23	Photo's	Adm	10/06/14
St	2	Diagram of intake/booking	Adm	10/06/14
St	3	Audio Jail Call	Adm	10/06/14
St	6	Miller Audio DC	Adm	10/07/14
St	8	Jail Photo	mark only	10/07/14
Def	A	Physical Readiness Test	Adm	10/07/14
Def	C	Audio Recording	Adm	10/08/14
Def	B	Medical Record	mark only	10/07/14

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

THOMAS JOHN KRALOVEC,

Defendant-Appellant.

Supreme Court Case No. 42760

CERTIFICATE OF SERVICE

I, CHRISTOPHER D. RICH, the undersigned authority, do hereby certify that I have personally served or mailed, by either United States Mail or Interdepartmental Mail, one copy of the following:

CLERK'S RECORD AND REPORTER'S TRANSCRIPT

to each of the Attorneys of Record in this cause as follows:

STATE APPELLATE PUBLIC DEFENDER

ATTORNEY FOR APPELLANT

BOISE, IDAHO

LAWRENCE G. WASDEN

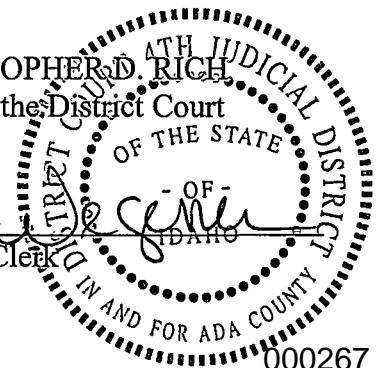
ATTORNEY FOR RESPONDENT

BOISE, IDAHO

Date of Service: APR 07 2015

CHRISTOPHER D. RICH
Clerk of the District Court

By [Signature]
Deputy Clerk



CERTIFICATE OF SERVICE

000267

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

THOMAS JOHN KRALOVEC,

Defendant-Appellant.

Supreme Court Case No. 42760

CERTIFICATE TO RECORD

I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, do hereby certify that the above and foregoing record in the above-entitled cause was compiled under my direction and is a true and correct record of the pleadings and documents that are automatically required under Rule 28 of the Idaho Appellate Rules, as well as those requested by Counsel.

I FURTHER CERTIFY, that the Notice of Appeal was filed in the District Court on the 4th day of December, 2014.

CHRISTOPHER D. RICH
Clerk of the District Court

By K. W. Regan
Deputy Clerk



CERTIFICATE TO RECORD